

# California Acupuncture Board Meeting

June 24 – 25, 2021

WebEx Conference Call



## **Board Members**

Dr. Amy Matecki, M.D., L.Ac., President

Kitman Chan, C.P.A., Vice President

Dr. Yong Ping Chen, L.Ac., Ph.D

John Harabedian, Esq.

Hyun "Francisco" Kim, M.S., L.Ac.

Dr. Shu Dong Li, Ph.D

Ruben Osorio



**ERC**



**ACUPUNCTURE BOARD  
EDUCATION AND RESEARCH COMMITTEE MEETING**

**AGENDA**

**Thursday, June 24, 2021**

**9:30 a.m. to 11:30 a.m. or until the completion of business**

**LOCATION:**

**Web Ex Teleconference**

<https://dca-meetings.webex.com/dca-meetings/onstage/g.php?MTID=e50a73cb3b00e9816f64805d652923e42>

**ACTION MAY BE TAKEN ON ANY ITEM LISTED ON THE AGENDA**

**Important Notices to the Public**

The Acupuncture Board Education and Research Committee will hold a public meeting via WebEx Events. To participate in the WebEx Events meeting, please log on at the web address under 'Location' on the day of the meeting.

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Pursuant to the provisions of Governor Gavin Newsom's Executive Order N-25-20, dated March 12, 2020, neither a public location nor teleconference locations are provided.

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1. Call to Order, Roll Call, and Establishment of Quorum (John Harabedian, Chair)
2. Chair's Remarks (Harabedian, Chair)
  - Welcoming message and meeting information
3. Public Comment on Items Not on the Agenda (Harabedian)
4. Review Current Curriculum Standards to Ensure it Prepares Licensees for Entry Level Practice and Consumer Safety
  - A. Discussion on Minimum Hours of Instruction and Curriculum Subject Areas Related to Herbs to Determine if Qualifications and Procedures for Safe Prescription and Use of Herbs Under Current Curriculum Standards are Sufficient (Herdt)

**B. Discussion on Minimum Hours of Instruction and Curriculum Subject Areas Related to Tai Chi and Qigong (Exercise Therapy) for Pain Management to Determine if Current Curriculum Standards are Sufficient (Herdt)**

**6. Future Agenda Items (Harabedian)**

**7. Adjournment (Harabedian)**

Informational Notes:

Discussion and action may be taken on any item on the Board Committee meeting agenda. The agenda, as well as any available Board meeting minutes and materials, can be found on the California Acupuncture Board website:

[www.acupuncture.ca.gov](http://www.acupuncture.ca.gov). The time and order of agenda items are approximate and subject to change at the discretion of the Board President; agenda items scheduled for a particular day may be moved or continued to an earlier or later noticed meeting day to facilitate the effective transaction of business.

In accordance with the Bagley-Keene Open Meeting Act, all meetings of the Board are open to the public. The Board plans to webcast this committee meeting at: <https://thedcapage.wordpress.com/webcasts/>. Webcast availability cannot, however, be guaranteed due to limitations on resources or other technical difficulties that may arise. If you wish to participate or to have a guaranteed opportunity to observe, please follow the log-in instruction listed above. Adjournment, if it is the only item that occurs after a closed session, may not be webcast.

Government Code section 11125.7 provides the opportunity for the public to address each agenda item during discussion or consideration by the Board Committee or prior to the Board Committee taking any action on said item. Members of the public will be provided appropriate opportunities to comment on any issues before the Board Committee, but the Board Committee Chair may, at his or her discretion, apportion available time among those who wish to speak. Individuals may appear before the Board Committee to discuss items not on the agenda; however, the Board Committee can neither discuss nor take official action on these items at the time for the same meeting. (Gov. Code, §§ 11125, 11125.7(a).)

Board meetings are open to the public and are held in barrier free facilities that are accessible to those with physical disabilities in accordance with the Americans with Disabilities Act (ADA). If you are a person with a disability requiring disability-related modifications or accommodations to participate in the meeting, including auxiliary aids or services, please contact the Board at (916) 515-5200; Fax: (916) 928-2204. Requests should be made as soon as possible, but at least five (5) working days prior to

the scheduled meeting. You may also dial a voice TTY/TDD Communications Assistant at (800) 322-1700 or 7-1-1.

# HOW TO – Join – DCA WebEx Event

The following contains instructions to join a WebEx event hosted by the Department of Consumer Affairs (DCA).

NOTE: The preferred audio connection to our event is via telephone conference and not the microphone and speakers on your computer. Further guidance relevant to the audio connection will be outlined below.

1. Navigate to the WebEx event link provided by the DCA entity (an example link is provided below for reference) via an internet browser.

Example link:

<https://dca-ca.webex.com/dca-ca/onstage/g.php?MTID=eb0a73a251f0201d9d5ef3aaa9e978bb5>

The screenshot shows a web browser window with the address bar containing the URL: <https://dca-ca.webex.com/dca-ca/onstage/g.php?MTID=eb0a73a251f0201d9d5ef3aaa9e978bb5>. The page header includes the California Department of Consumer Affairs logo and the text "California Department of Consumer Affairs".

**Event Information: 3/26**

<b>Event status:</b>	Started
<b>Date and time:</b>	Thursday, March 26, 2020 10:30 am Pacific Daylight Time (San Francisco, GMT-07:00) <a href="#">Change time zone</a>
<b>Duration:</b>	1 hour
<b>Description:</b>	

By joining this event, you are accepting the Cisco Webex [Terms of Service](#) and [Privacy Statement](#).

**Join Event Now**

To join this event, provide the following information.

<b>First name:</b>	<input type="text"/>
<b>Last name:</b>	<input type="text"/>
<b>Email address:</b>	<input type="text"/>
<b>Event password:</b>	<input type="password"/>

[Join Now](#)

[Join by browser](#) **NEW!**

If you are the host, [start your event](#).

2. The details of the event are presented on the left of the screen and the required information for you to complete is on the right.

NOTE: If there is a potential that you will participate in this event during a Public Comment period, you must identify yourself in a manner that the event Host can then identify your line and unmute it so the event participants can hear your public comment.

# HOW TO – Join – DCA WebEx Event

California Department of Technology x +

dca-ca.webex.com/mw3300/mywebex/default.do?nomenu=true&siteurl=dca-ca&service=6&rnd=0.562003235914354&main\_url=https%3A%2F%2Fdca-ca.webex.com%2Fec3300%2Feventcenter%2Fevent%2FeventAction.do%3F

Apps PreProd SimpliGov Prod SimpliGov Christian Brothers... Web Content Acces... Ferris Bueller's Day... PDF Techniques J Te... DCA Password Rese...

**dca** **CA** California Department of Consumer Affairs

Event Information: 3/26

**Event status:** Started

**Date and time:** Thursday, March 26, 2020 10:30 am  
Pacific Daylight Time (San Francisco, GMT-07:00)  
[Change time zone](#)

**Duration:** 1 hour

**Description:**

By joining this event, you are accepting the Cisco Webex [Terms of Service](#) and [Privacy Statement](#).

Join Event Now

To join this event, provide the following information.

**First name:** Jason

**Last name:** Piccione

**Email address:** jason.piccione@dca.ca.gov

**Event password:** \*\*\*\*\*

**Join Now**

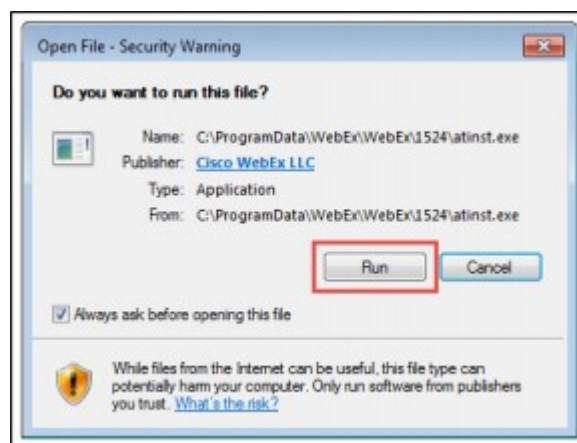
[Join by browser](#) **NEW!**

If you are the host, [start your event](#).

3. Click the 'Join Now' button.

NOTE: The event password will be entered automatically. If you alter the password by accident, close the browser and click the event link provided again.

4. If you do not have the WebEx applet installed for your browser, a new window may open, so make sure your pop-up blocker is disabled. You may see a window asking you to open or run new software. Click 'Run'.



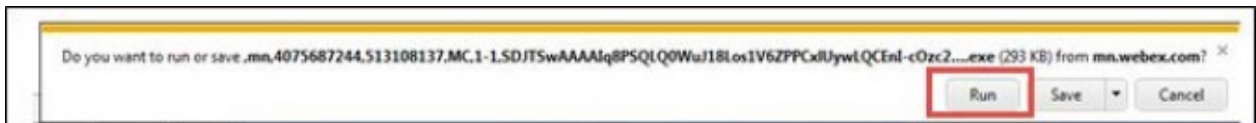
Depending on your computer's settings, you may be blocked from running the necessary software. If this is the case, click 'Cancel' and return to the browser tab that looks like the window below. You can bypass the above process.

## Starting Webex...



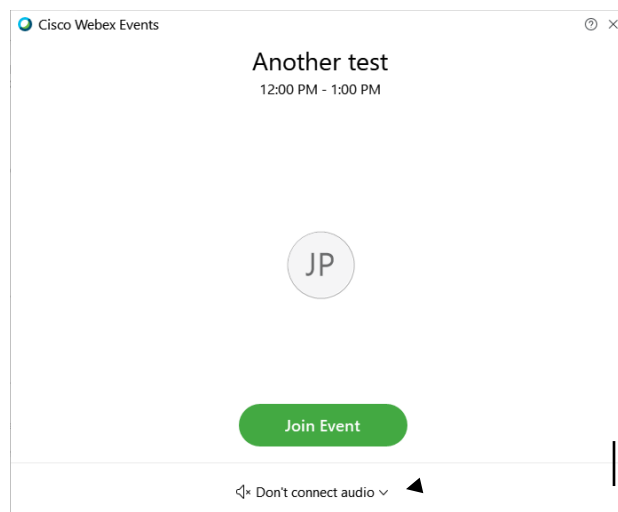
Still having trouble? [Run a temporary application](#) to join this meeting immediately.

5. To bypass step 4, click 'Run a temporary application'.
6. A dialog box will appear at the bottom of the page, click 'Run'.



The temporary software will run, and the meeting window will open.

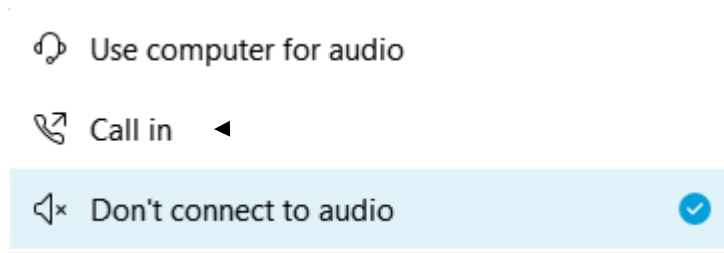
7. Click the audio menu below the green 'Join Event' button.



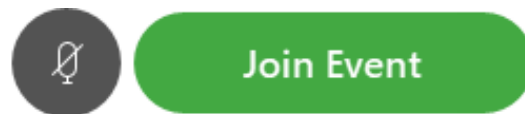


# HOW TO – Join – DCA WebEx Event

8. When the audio menu appears click 'Call in'.

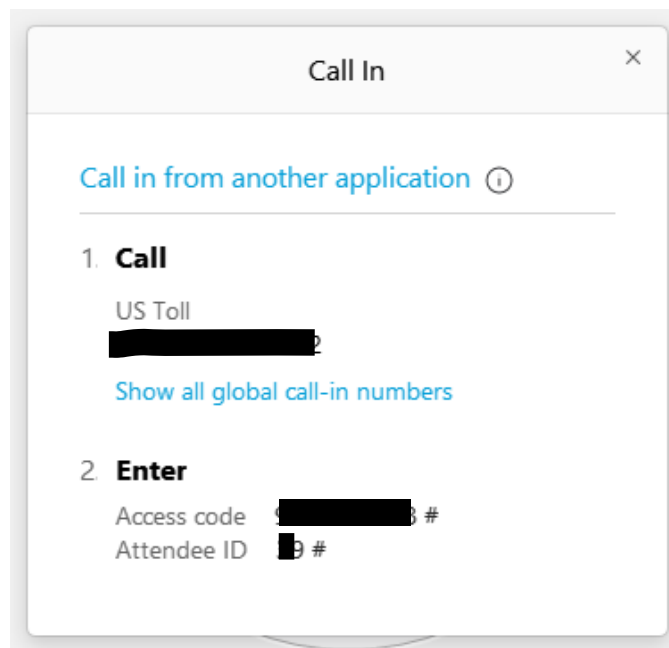


9. Click 'Join Event'. The audio conference call in information will be available after you join the Event.



Call in ▾

10. Call into the audio conference with the details provided.

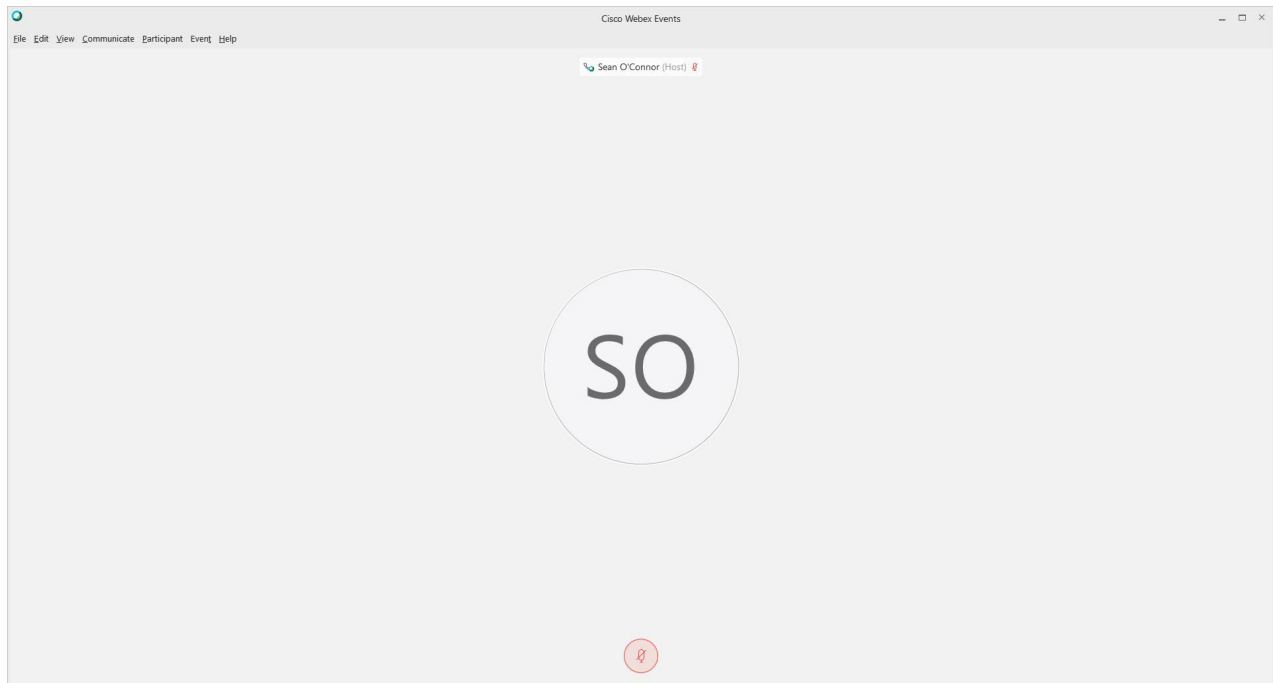


# HOW TO – Join – DCA WebEx Event

NOTE: The audio conference is the preferred method. Using your computer's microphone and speakers is not recommended.

Once you successfully call into the audio conference with the information provided, your screen will look like the screen below and you have joined the event.

Congratulations!

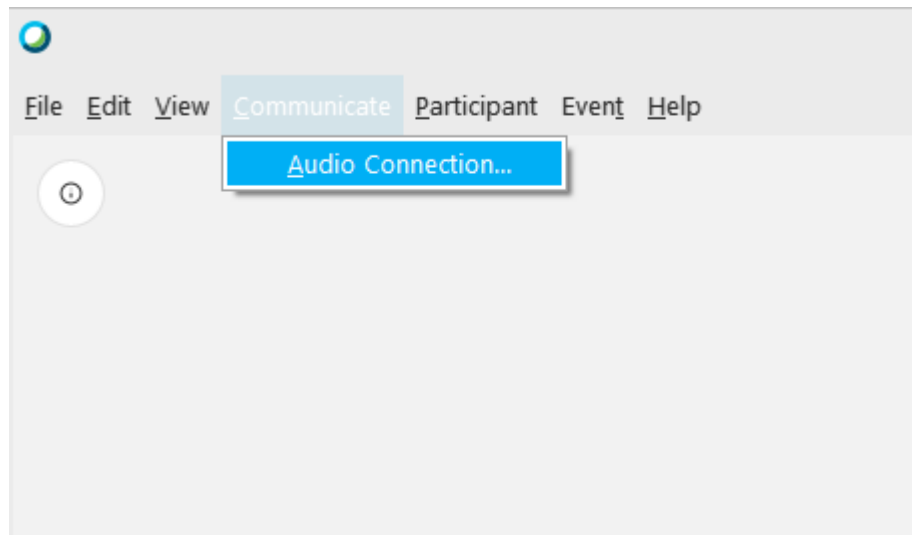


NOTE: Your audio line is muted and can only be unmuted by the event host.

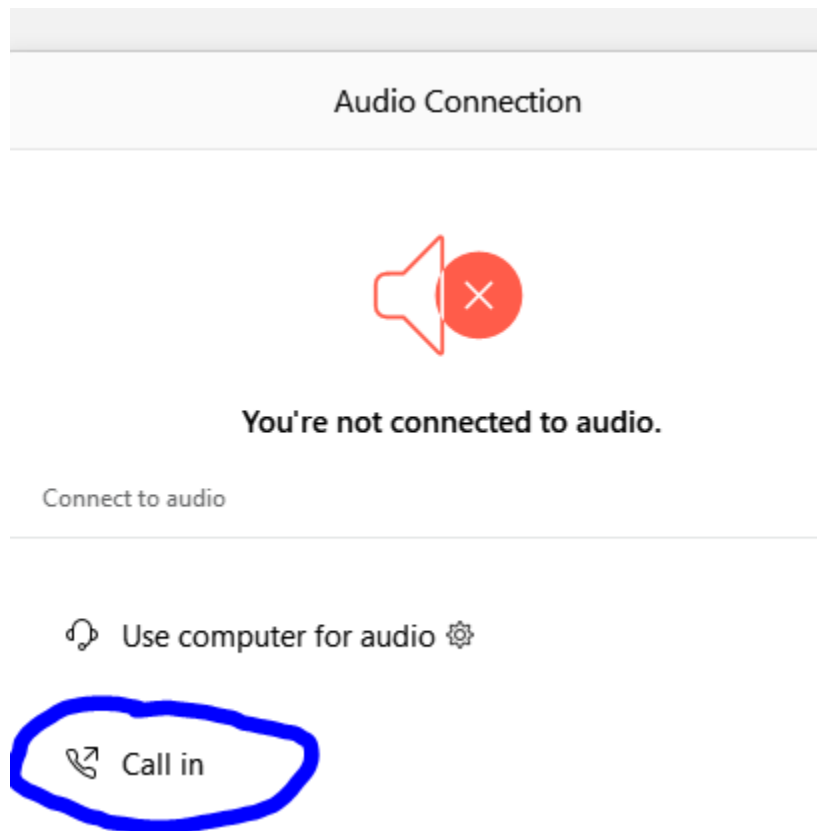
If you join the meeting using your computer's microphone and audio, or you didn't connect audio at all, you can still set that up while you are in the meeting.

Select 'Communicate' and 'Audio Connection' from top left of your screen.

# HOW TO – Join – DCA WebEx Event



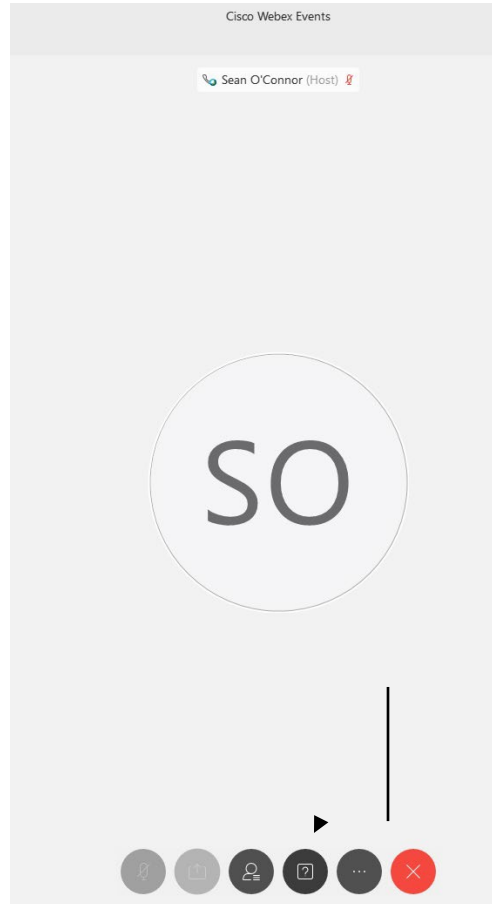
The 'Call In' information can be displayed by selecting 'Call in' then 'View'



You will then be presented the dial in information for you to call in from any phone.

## Participating During a Public Comment Period

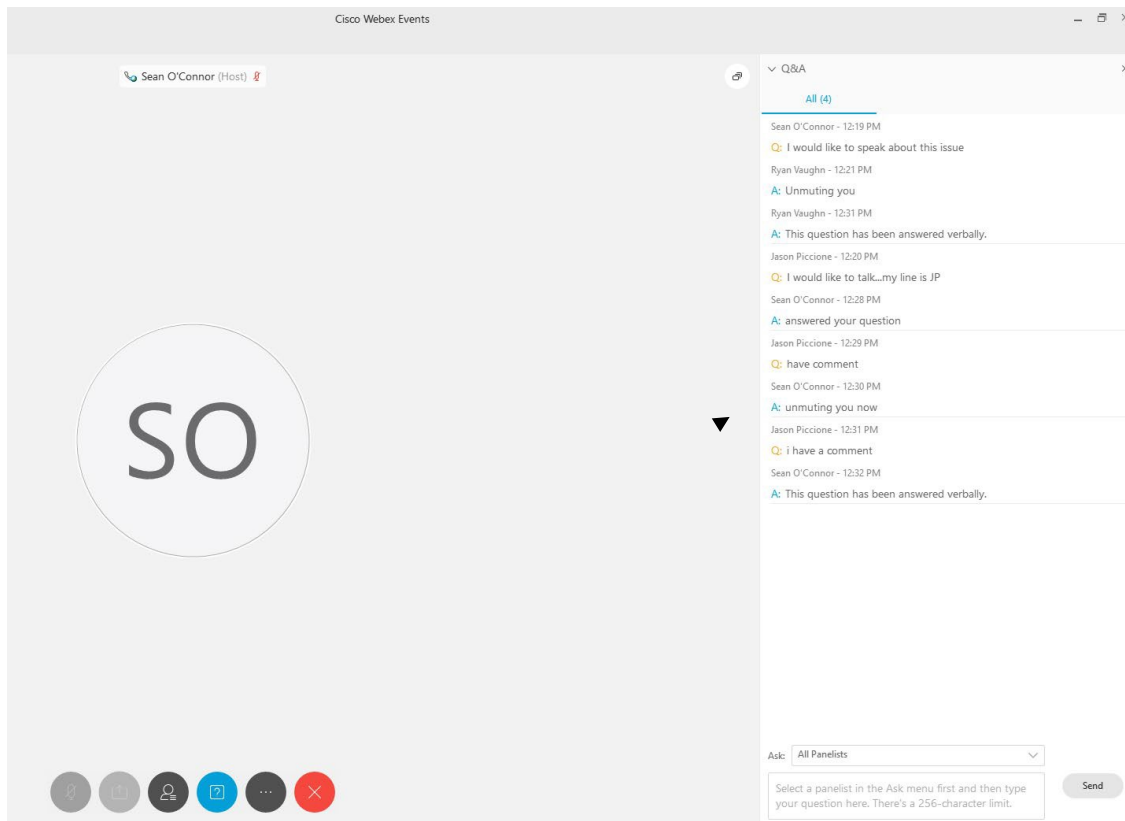
At certain times during the event, the facilitator may call for public comment. If you would like to make a public comment, click on the 'Q and A' button near the bottom, center of your WebEx session.



This will bring up the 'Q and A' chat box.

NOTE: The 'Q and A' button will only be available when the event host opens it during a public comment period.

# HOW TO – Join – DCA WebEx Event



To request time to speak during a public comment period, make sure the 'Ask' menu is set to 'All panelists' and type 'I would like to make a public comment'.

Attendee lines will be unmuted in the order the requests were received, and you will be allowed to present public comment.

NOTE: Your line will be muted at the end of the allotted public comment duration. You will be notified when you have 10 seconds remaining.



# **Herbal Curriculum Standards**



<b>DATE</b>	June 24-25, 2021
<b>TO</b>	Education and Research Committee
<b>FROM</b>	David Bruggeman, Policy Analyst
<b>SUBJECT</b>	Discussion on Minimum Hours of Instruction and Curriculum Subject Areas Related to Herbs to Determine if Qualifications and Procedures for Safe Prescription and Use of Herbs Under Current Curriculum Standards are Sufficient

Board members requested discussion on the use of herbs in the practice of acupuncture, most recently in the March 25-26, 2021 Board meeting. As part of the Board's 2018-2022 Strategic Plan, Goal 3, Education, states that a goal of the Board is to:

*"Advance education standards to increase the quality of education and ensure consumer protection."*

Goal 3.3 in Education captures the Board's decision to, "Review current curriculum standards to ensure it prepares licensees for entry level practice and consumer safety."

What follows is a listing of all references to curriculum requirements in current California acupuncture laws and regulations involving the use of herbs.

### **Acupuncture Tutorials**

300 hours specifically required as relating to "Traditional Oriental herbology including botany." This is out of 1548 hours in the section on theoretical and didactic training. 16 CCR 1399.425 (e)(7)

### **Educational and Training Program Curricula**

At least 450 hours in "Chinese Herbal Medicine Principles and Theory, including relevant botany concepts." 16 CCR 1399.434 (b)(1)(D). This change was made in 2005, while the requirement for tutorials remains at 300.

Instruction in herbal prescription, counseling, and preparation. 16 CCR 1399.434 (b)(2)(E) No minimum hours are listed for this category, but all courses in Acupuncture and Oriental Medicine Principles, Theories and Treatment - 16 CCR 1399.434 (b) - must total at least 1255 hours.

Instruction in "Pharmacological assessment, emphasizing side-effects and herb-drug interactions." (16 CCR 1399.434 (c)(3)) No hours are listed, but all courses in Clinical Medicine, Patient Assessment and Diagnosis - 16 CCR 1399.434 (c) must total at least 240 hours.

Instruction in "treatment contraindications and complications, including drug and herb interactions" (16 CCR 1399.434 (d)(4)) No hours listed, but it is part of the 90 hour requirement in Case Management (16 CCR 1399.434(d))

## **Accreditation Commission for Acupuncture and Oriental Medicine Standards**

The most recent Comprehensive Standards and Criteria from the Accreditation Commission for Acupuncture and Oriental Medicine (ACAOM) for Programs of Study require the following with respect to herbs:

### **Course Hours**

#### **Master's Level**

For a professional program in acupuncture with a Chinese herbal medicine specialization:

- 450 clock hours of instruction in didactic AOM-related herbal studies.
- 870 clock hours of instruction in integrated acupuncture and herbal clinical training, comprised of at least 150 hours in clinical observation and 700 clock hours of instruction in clinical internship.

For a Chinese herbal medicine certificate program:

- 450 clock hours of instruction in didactic AOM-related herbal studies.
- 210 clock hours of instruction in clinical training, comprised of at least 200 clock hours of instruction in herbal clinical internship training.
- Certificate programs must include current enrollment in, or the satisfactory completion of, an ACAOM-accredited/pre-accredited entry-level (i.e., master's-level, or professional doctoral) program in acupuncture or in acupuncture with a Chinese herbal medicine specialization.
  - English language competency is required of all students seeking admission to the master's-level program. This must be demonstrated by one of the following means:
    - a) The student must have completed a two-year (60 semester credits or 90 quarter credits) undergraduate- or graduate-level, English-based education in an institution:
      - (i) accredited by an agency recognized by the U.S. Secretary of Education, or
      - (ii) in the United Kingdom, Australia, Canada (except Quebec), New Zealand, or Ireland. In all cases, English must have been both the language of instruction and the language of the curriculum used;
    - b) Test of English as a Foreign Language Internet-Based Test (TOEFL® iBT) - Acceptable scores: TOEFL iBT total score – 61 with minimum speaking score –20 and minimum listening score – 17; or c)
    - c) International English Language Testing System (IELTS) Academic Format Acceptable scores: IELTS overall band score 6 with minimum speaking score –6.5 and minimum listening score – 6.

#### **Doctoral Level**

For a professional program in acupuncture with a Chinese herbal medicine specialization:

- 450 clock hours of instruction in didactic AOM-related herbal studies.



- 1,000 clock hours of instruction in integrated acupuncture and herbal clinical training, comprised of at least 150 hours in clinical observation and 700 clock hours of instruction in clinical internship.
- Meet or exceed all existing ACAOM standards and criteria required for master's level acupuncture programs with a Chinese herbal medicine specialization.

## **Competencies**

In addition to the course hour standards, ACAOM standards involve students being able to demonstrate a variety of competencies. Those explicitly related to herbs are:

### **Master's Level**

- Describe the fundamental theory underlying the use of herbs, natural products and formulations.
- Accurately articulate properties and functions of herbs and natural products in the material medica.
- Recognize obsolete or restricted herbs and natural products (i.e., endangered species, restricted or toxic substances) and identify appropriate alternatives for said substances.
- Accurately articulate properties, functions, principles, dosages and ingredients of traditional formulations.
- Compose and revise formulations of appropriately dosed herbs and natural products based on traditional practice and patient assessment.
- Safely and effectively administer herbs and natural products, formulations, and prepared products (i.e., dietary supplements).
- Evaluate the efficacy of appropriately administered herbs, natural products, and formulations through the identification and review of current research.
- Recall elementary concepts of botany and common chemical constituents of herbs and natural products.
- Appraise potential toxicity, side effects, contraindications, and pharmaceutical interactions for herbs and natural products, formulas and prepared products.
- Describe state and federal regulations relevant to the practice of Oriental medicine, including scope of practice, vendor compliance with manufacturing standards, and appropriate mechanisms for the reporting of serious adverse events.
- Describe the various forms of formulation preparation.
- Describe dispensary practices that provide quality assurance, including product storage, facility management, preparation practices, product tracking, and record keeping,
- Recognize ethical issues and evaluate appropriate actions when administering herbs and natural products

### **Doctoral Level**

The student must demonstrate the ability to administer AOM treatment, including Chinese herbal medicine as applicable, in core and concentration areas with competence that is qualitatively advanced beyond entry-level.



**Exercise  
Therapy  
Curriculum  
Standards**



<b>DATE</b>	June 24-25, 2021
<b>TO</b>	Education and Research Committee
<b>FROM</b>	David Bruggeman, Policy Analyst
<b>SUBJECT</b>	Discussion on Minimum Hours of Instruction and Curriculum Subject Areas Related to Tai Chi and Qigong (Exercise Therapy) for Pain Management to Determine if Current Curriculum Standards are Sufficient)

Board members requested discussion on the use of exercise therapy (such as tai chi and qi gong) in the practice of acupuncture, especially as it applies to pain management. This interest was most recently expressed at the March 25-26, 2021 Board meeting. As part of the Board's 2018-2022 Strategic Plan, Goal 3, Education, states that a goal of the Board is to:

*“Advance education standards to increase the quality of education and ensure consumer protection.”*

Goal 3.3 in Education captures the Board's decision to “Review current curriculum standards to ensure it prepares licensees for entry level practice and consumer safety.”

What follows is a listing of all references to curriculum requirements in current California acupuncture laws and regulations involving the use of exercise therapy.

### **Acupuncture Tutorials**

Breathing techniques - introductory course in Qi Gong. 16 CCR 1399.425 (e)(5)

Traditional Oriental exercise - introductory course in Tai Chi Chuan. 16 CCR 1399.425 (e)(6)

These items are both part of the clinical and didactic training component, which requires a minimum of 1548 hours instruction. 16 CCR 1399.425 (e)

### **Educational and Training Program Curricula**

Exercise therapy, including breathing, qi gong and taiji quan; 16 CCR 1399.434 (b)(2)(D). No hours given. This is part of the Acupuncture and Oriental Medicine Principles, Theories and Treatment component, which requires 1255 hours instruction. 16 CCR 1399.434(b).

### **Continuing Education**

Exercise therapy is listed in both categories (patient-centered and non-patient centered) of continuing education courses described in 16 CCR 1399.484(b).

### **ACAOM Standards**

The Accreditation Commission for Acupuncture and Oriental Medicine (ACAOM) minimally references Tai Chi, Qi Gong, or other exercise therapy in Standard 7 as a related competency in its latest Comprehensive Standards and Criteria:

- AOM treatment may include, but is not limited to:

The use of AOM clinical procedures to stimulate specific locations via mechanical, electrical, magnetic, thermal, laser, photon, or wave-generating means; needle insertion (e.g., acupuncture, dry-needling); moxibustion and localized heat therapy; therapeutic blood withdrawal; cupping; scraping/gua sha; manual therapy (e.g., bodywork, tui na, shiatsu); therapeutic exercise (e.g., taiji, qigong); nutritional counseling; lifestyle recommendations; and internal and/or external herbal therapy.



# **FBM Agenda**



## ACUPUNCTURE BOARD MEETING AGENDA

Thursday and Friday, June 24 and 25, 2021

### Day One

Thursday, June 24, 2021

12:30 p.m.

TO

5:00 p.m.

(OR UPON COMPLETION OF BUSINESS)

LOCATION:

Web Ex Teleconference

<https://dca-meetings.webex.com/dca-meetings/onstage/g.php?MTID=e50a73cb3b00e9816f64805d652923e42>

### Important Notices to the Public

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Pursuant to the provisions of Governor Newsom's Executive Order N-25-20, dated March 12, 2020, neither a public location nor teleconference locations are provided.

ACTION MAY BE TAKEN ON ANY ITEM LISTED ON THE AGENDA

-

### Members of the Board

Dr. Amy Matecki, M.D., L.Ac., President

Kitman Chan, C.P.A., Vice President

Dr. Yong Ping Chen, L.Ac., Ph.D

John Harabedian, Esq.

Hyun "Francisco" Kim, M.S., L.Ac.

Dr. Shu Dong Li, Ph.D

Ruben Osorio

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1. **Call to Order, Roll Call, and Establishment of Quorum for Day One (Dr. Amy Matecki, Board President)**

**2. President's Remarks (Dr. Matecki)**

- Welcoming message and meeting information

**3. Public Comment on Items Not on the Agenda (Dr. Matecki)**

*The Board may not discuss or take action on any matter raised during the Public Comment section that is not included on this agenda, except whether to decide to place the matter on the agenda of a future meeting. (Gov. Code, §§ 11125, 11125.7(a).)*

**4. Public Comments Received by the Board (Dr. Matecki)**

**5. Review and Possible Approval of the March 2021 Board Meeting Minutes (Dr. Matecki)**

**6. Executive Officer's Report (Ben Bodea, Executive Officer)**

- (A) Budget Update - Fund Condition
- (B) Staffing Update

**7. Business Modernization Update (Herdt)**

**8. Board 2018-2022 Strategic Plan Status Update (Bodea)**

**9. Licensing Report – Q#3, FY 20 –21 (Herdt)**

**10. Enforcement Report – Q#3, FY 20 - 21 (Cricket Borges, Enforcement Coordinator)**

**11. Legislative Report and Update of 2021 Legislative Bills of Interest to the Board (Kristine Brothers, Policy Coordinator)**

**(A) Bills the Board Currently Has a Watch Position On (Update)**

- i. [AB 2](#) (Fong) Regulations: legislative review: regulatory reform
- ii. [AB 29](#) (Cooper) State bodies: meetings
- iii. [AB 54](#) (Kiley) COVID-19 emergency order violation: license revocation
- iv. [AB 107](#) (Salas) Licensure: veterans and military spouses
- v. [AB 646](#) (Low) Department of Consumer Affairs: boards: expunged convictions
- vi. [AB 885](#) (Quirk) Bagley-Keene Open Meeting Act: teleconferencing
- vii. [AB 1236](#) (Ting) Healing Arts: licensees: data collection

**(B) Bills the Board Currently Has an Oppose Position On (Update)**

- viii. [AB 339](#) (Lee) Local government: open meetings
- ix. [AB 918](#) (Quirk-Silva) Acupuncture: licensure: examination
- x. [AB 1386](#) (Cunningham) License fees: military partners and spouses
- xi. [SB 772](#) (Ochoa-Bogh) Professions and vocations: citations: minor violations

**(C) Bills for Board Consideration (Possible Board Action)**

- xii. [AB 810](#) (Flora) Healing arts: reports: claims against licensees
- xiii. [AB 1026](#) (Smith) Business licenses: veterans
- xiv. [AB 1273](#) (Rodriguez) Interagency Advisory Committee on Apprenticeship: the Director of Consumer Affairs and the State Public Health Officer
- xv. [AB 1468](#) (Cunningham) Prior authorization
- xvi. [SB 607](#) (Roth) Professions and vocations
- xvii. [SB 731](#) (Durazo) Criminal records: relief

**12. Regulations Update (Brothers)**

**(A) Review of the Board's Submitted 2021 Rulemaking Calendar**

- 1) Substantial Relationship and Rehabilitation Criteria  
(Title 16 CCR sections 1399.469.4, 1399.469.5, 1399.469.6)
- 2) Disciplinary Guidelines; Uniform Standards for Substance Abusing Licensees; Probation Disclosure  
(Title 16 CCR section 1399.469)
- 3) Align Curriculum Standards and Approval Related Regulations with Statute  
(Title 16 CCR sections 1399.415, 1399.434, 1399.435, 1399.437, 1399.438, 1399.439)
- 4) Application Process, Criteria, and Procedures for Approval of a Credential Evaluation Service  
(Title 16 CCR sections 1399.411, 1399.413, 1399.414, 1399.416, 1399.416.1, 1399.416.2, 1399.417, 1399.419)
- 5) Board Fee Schedule  
(Title 16 CCR sections 1399.460, 1399.461, 1399.462)
- 6) Application for Retired Status; Retired Status  
(Title 16 CCR section 1399.419.3)



**7) Continuing Education Requirements  
(Title 16 CCR sections 1399.483, 1399.489)**

**8) Standards of Practice for Telehealth Services  
(Title 16 CCR section 1399.452.1)**

**(B) Board Regulations Progress Tracker**

- 13. Consumer and Professional Associations Reports**
- 14. Report from Education and Research Committee Chair on June 24, 2021  
Committee Meeting and Possible Action on any Recommendations (John  
Harabedian, Committee Chair)**
- 15. Future Agenda Items (Dr. Matecki)**
- 16. Adjournment of Day One**



## ACUPUNCTURE BOARD MEETING

Day Two

Friday, June 25, 2021

9:30 a.m.

TO

5:00 p.m.

(OR UPON COMPLETION OF BUSINESS)

LOCATION:

Web Ex Teleconference

<https://dca-meetings.webex.com/dca-meetings/onstage/g.php?MTID=ec4ca5e7c0d427b9d1ed763c4927891a6>

ACTION MAY BE TAKEN ON ANY ITEM LISTED ON THE AGENDA

17. **Call to Order, Roll Call, and Establishment of Quorum for Day Two**  
(Dr. Amy Matecki, Board President)
18. **President's Remarks (Dr. Matecki)**
  - Welcoming message and meeting information
19. **Public Comment on Items Not on the Agenda (Dr. Matecki)**

*The Board may not discuss or take action on any matter raised during the Public Comment section that is not included on this agenda, except whether to decide to place the matter on the agenda of a future meeting. (Gov. Code, §§ 11125, 11125.7(a).)*
20. **Review of the Consumer Protection Role of the Board (Chan-You)**
21. **Review of the Board's Role concerning Requests for Public Comments (Chan-You)**
22. **Presentation on CEU Requirements for Acupuncture Board and other Healing Arts Boards in the Department of Consumer Affairs (Bodea)**
23. **Discussion and Possible Action to Initiate a Rulemaking to Amend Title 16, CCR §§ 1399.411, 1399.413, 1399.414, 1399.416, 1399.416.1, 1399.416.2, 1399.417, 1399.419: Application Process, Criteria, and Procedures for Approval of a Credential Evaluation Service (Brothers)**

**24. Election of Board Officers (Dr. Matecki, President)**

**(A) Election for President**

**(B) Election for Vice President**

**25. Future Agenda Items (Dr. Matecki)**

**26. Adjournment of Day Two (Dr. Matecki)**

Informational Notes:

Discussion and action may be taken on any item on the full board meeting agenda. The agenda, as well as any available Board meeting minutes and materials, can be found on the California Acupuncture Board website: [www.acupuncture.ca.gov](http://www.acupuncture.ca.gov).

The time and order of agenda items are approximate and subject to change at the discretion of the Board President; agenda items scheduled for a particular day may be moved or continued to an earlier or later noticed meeting day to facilitate the effective transaction of business.

In accordance with the Bagley-Keene Open Meeting Act, all meetings of the Board are open to the public. The Board plans to webcast this meeting at:

<https://thedcapage.wordpress.com/webcasts/>.

Webcast availability cannot, however, be guaranteed due to limitations on resources or other technical difficulties that may arise. If you wish to participate or to have a guaranteed opportunity to observe, please follow the log-in instruction listed above. Adjournment, if it is the only item that occurs after a closed session, may not be webcast.

Government Code section 11125.7 provides the opportunity for the public to address each agenda item during discussion or consideration by the Board or prior to the Board taking any action on said item. Members of the public will be provided appropriate opportunities to comment on any issues before the Board, but the Board President may, at his or her discretion, apportion available time among those who wish to speak. Individuals may appear before the Board to discuss items not on the agenda; however, the Board can neither discuss nor take official action on these items at the time for the same meeting. (Gov. Code, §§ 11125, 11125.7(a).)

Board meetings are open to the public and are held in barrier free facilities that are accessible to those with physical disabilities in accordance with the Americans with Disabilities Act (ADA). If you are a person with a disability requiring disability-related

modifications or accommodations to participate in the meeting, including auxiliary aids or services, please contact the Board at (916) 515-5200; Fax: (916) 928-2204. Requests should be made as soon as possible, but at least five (5) working days prior to the scheduled meeting. You may also dial a voice TTY/TDD Communications Assistant at (800) 322-1700 or 7-1-1.

# HOW TO – Join – DCA WebEx Event

The following contains instructions to join a WebEx event hosted by the Department of Consumer Affairs (DCA).

NOTE: The preferred audio connection to our event is via telephone conference and not the microphone and speakers on your computer. Further guidance relevant to the audio connection will be outlined below.

1. Navigate to the WebEx event link provided by the DCA entity (an example link is provided below for reference) via an internet browser.

Example link:

<https://dca-ca.webex.com/dca-ca/onstage/g.php?MTID=eb0a73a251f0201d9d5ef3aaa9e978bb5>

The screenshot shows a web browser window with the following content:

- Event Information: 3/26**
- Event status:** Started
- Date and time:** Thursday, March 26, 2020 10:30 am Pacific Daylight Time (San Francisco, GMT-07:00) [Change time zone](#)
- Duration:** 1 hour
- Description:**
- By joining this event, you are accepting the Cisco Webex [Terms of Service](#) and [Privacy Statement](#).

On the right side, there is a **Join Event Now** section with the following text: "To join this event, provide the following information."

Registration form fields:

- First name:**
- Last name:**
- Email address:**
- Event password:**

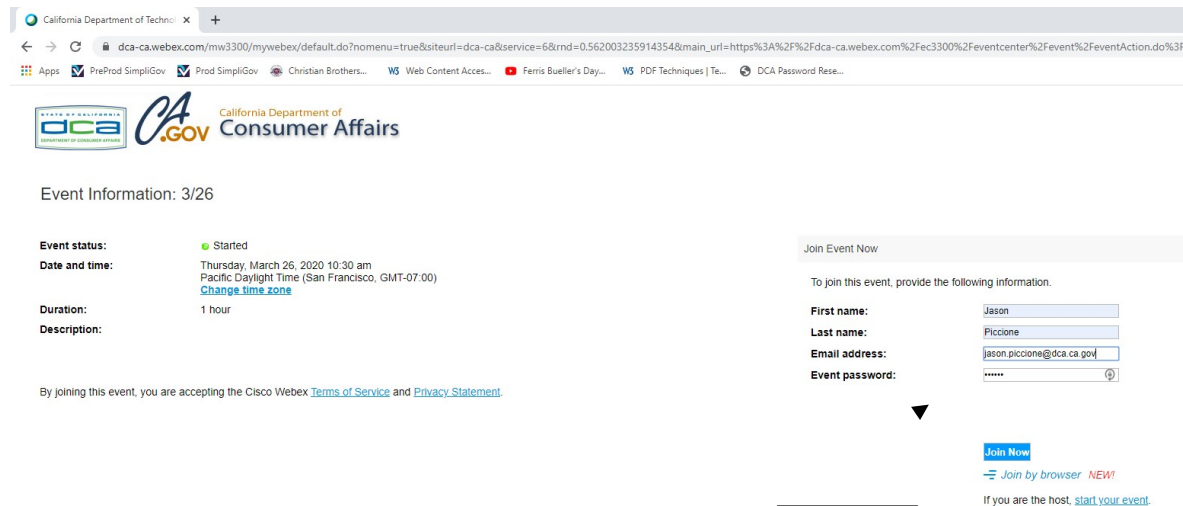
Buttons and links:

- [Join Now](#)
- [Join by browser](#) **NEW!**
- If you are the host, [start your event](#).

2. The details of the event are presented on the left of the screen and the required information for you to complete is on the right.

NOTE: If there is a potential that you will participate in this event during a Public Comment period, you must identify yourself in a manner that the event Host can then identify your line and unmute it so the event participants can hear your public comment.

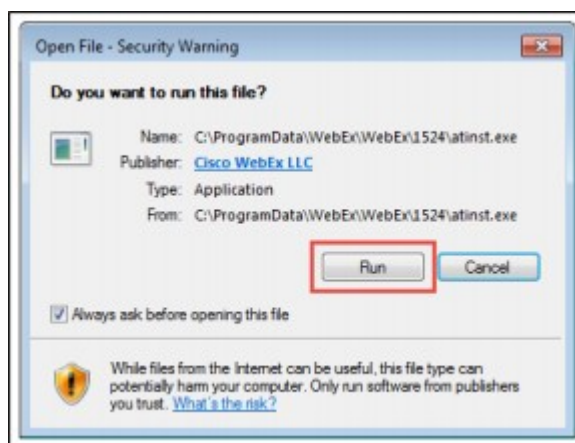
# HOW TO – Join – DCA WebEx Event



### 3. Click the 'Join Now' button.

NOTE: The event password will be entered automatically. If you alter the password by accident, close the browser and click the event link provided again.

### 4. If you do not have the WebEx applet installed for your browser, a new window may open, so make sure your pop-up blocker is disabled. You may see a window asking you to open or run new software. Click 'Run'.



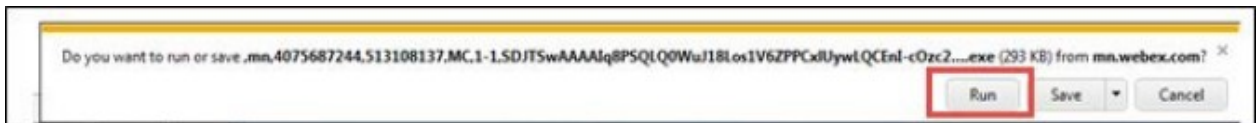
Depending on your computer's settings, you may be blocked from running the necessary software. If this is the case, click 'Cancel' and return to the browser tab that looks like the window below. You can bypass the above process.

## Starting Webex...



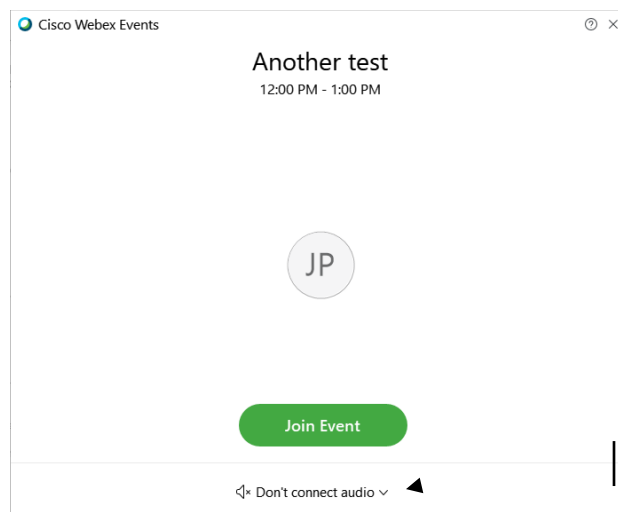
Still having trouble? [Run a temporary application](#) to join this meeting immediately.

5. To bypass step 4, click 'Run a temporary application'.
6. A dialog box will appear at the bottom of the page, click 'Run'.



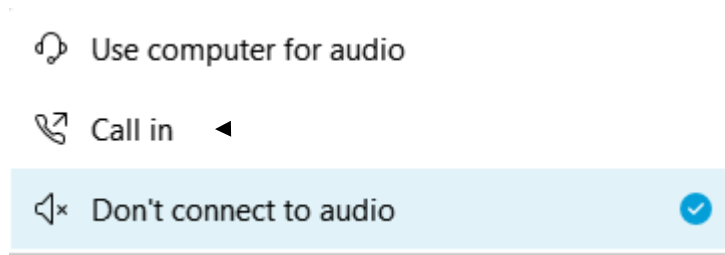
The temporary software will run, and the meeting window will open.

7. Click the audio menu below the green 'Join Event' button.



# HOW TO – Join – DCA WebEx Event

8. When the audio menu appears click 'Call in'.

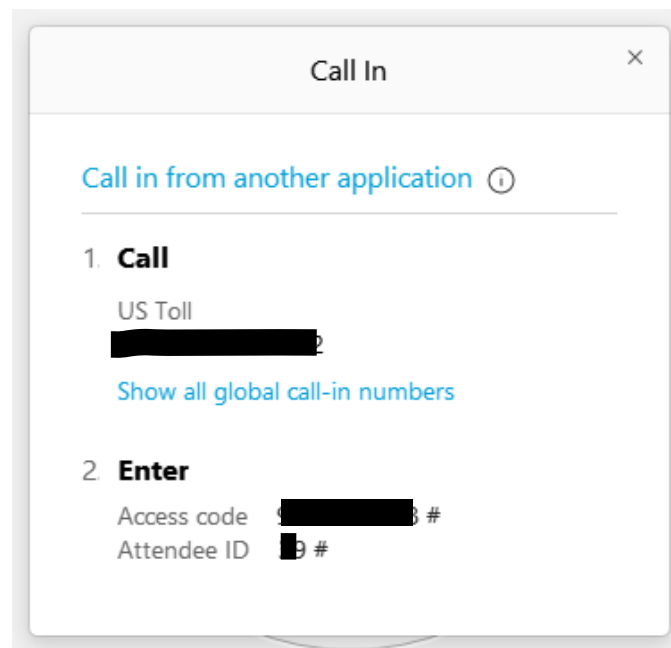


9. Click 'Join Event'. The audio conference call in information will be available after you join the Event.



Call in ▾

10. Call into the audio conference with the details provided.



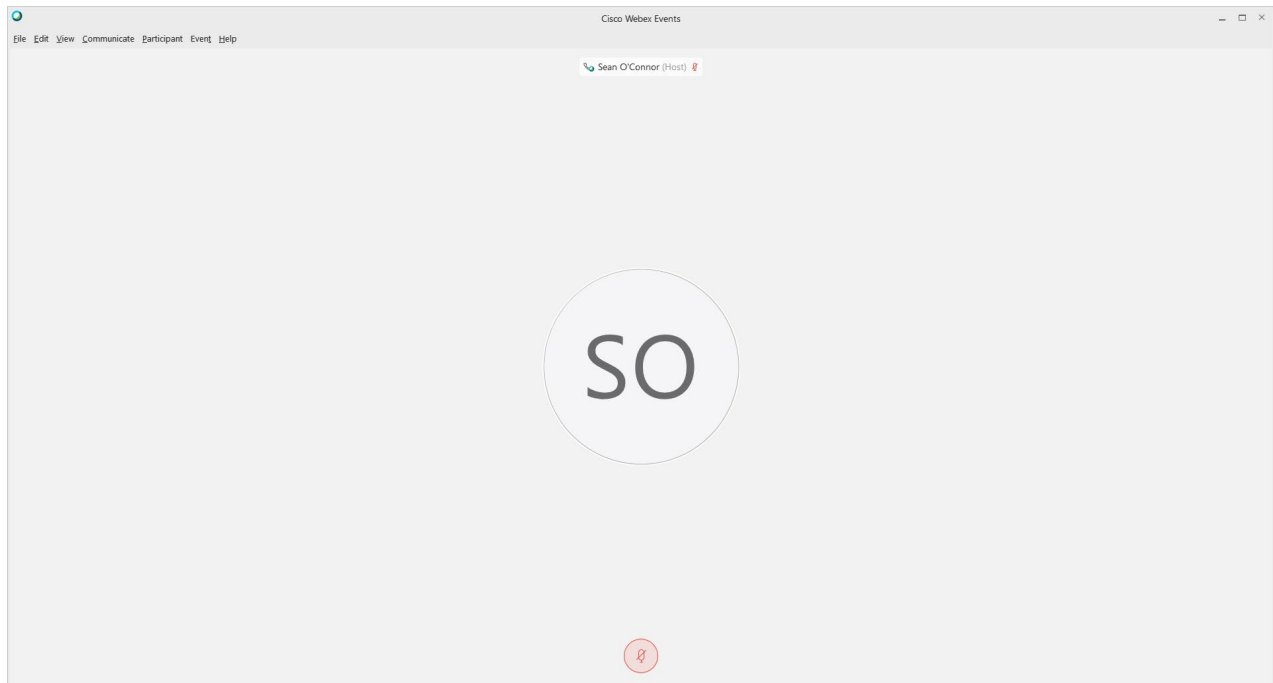


# HOW TO – Join – DCA WebEx Event

NOTE: The audio conference is the preferred method. Using your computer's microphone and speakers is not recommended.

Once you successfully call into the audio conference with the information provided, your screen will look like the screen below and you have joined the event.

Congratulations!

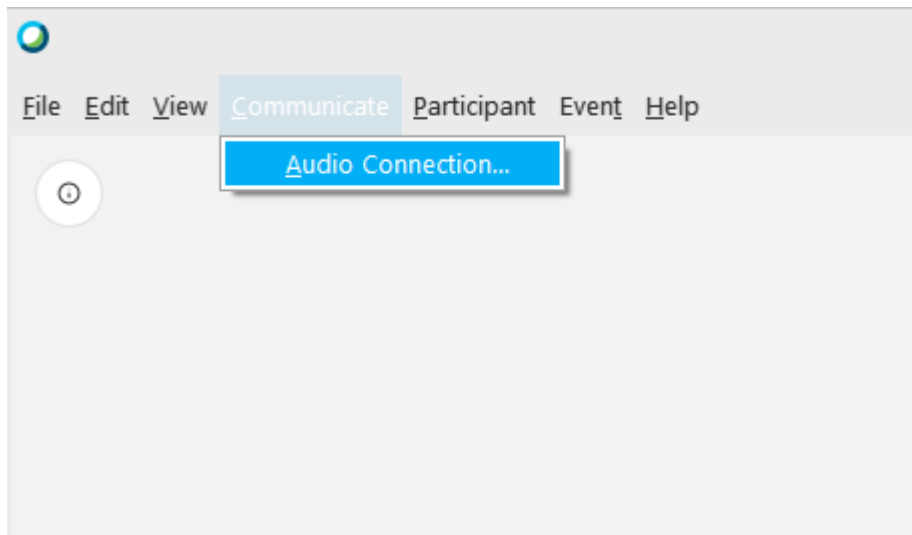


NOTE: Your audio line is muted and can only be unmuted by the event host.

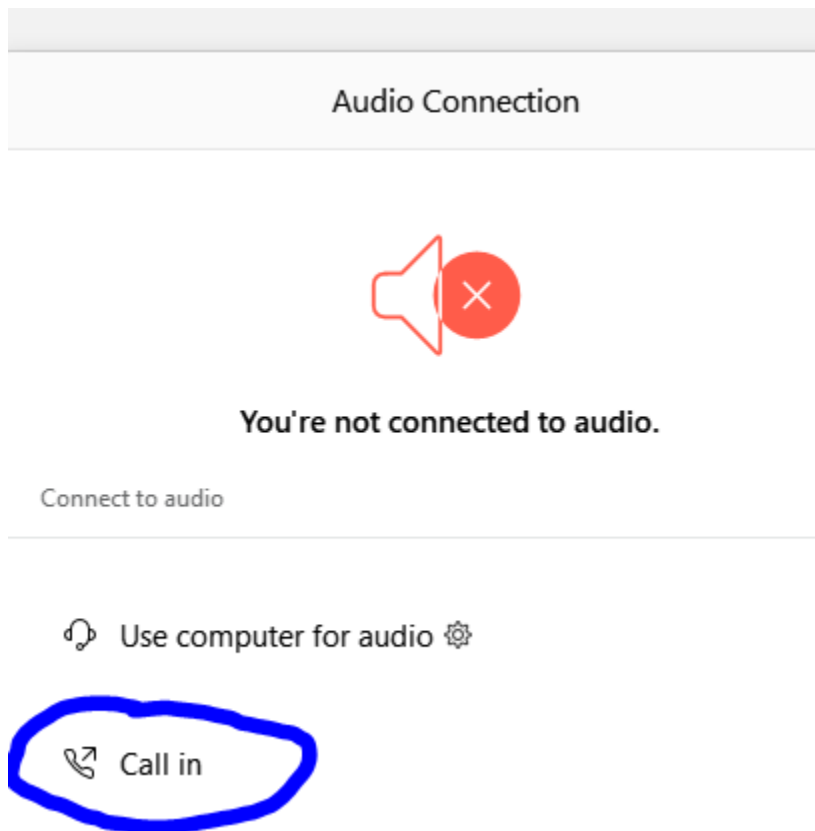
If you join the meeting using your computer's microphone and audio, or you didn't connect audio at all, you can still set that up while you are in the meeting.

Select 'Communicate' and 'Audio Connection' from top left of your screen.

# HOW TO – Join – DCA WebEx Event



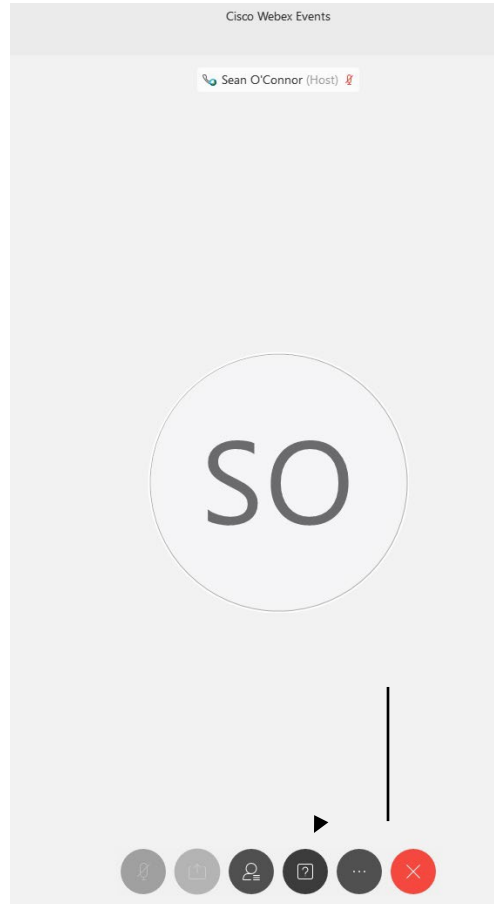
The 'Call In' information can be displayed by selecting 'Call in' then 'View'



You will then be presented the dial in information for you to call in from any phone.

## Participating During a Public Comment Period

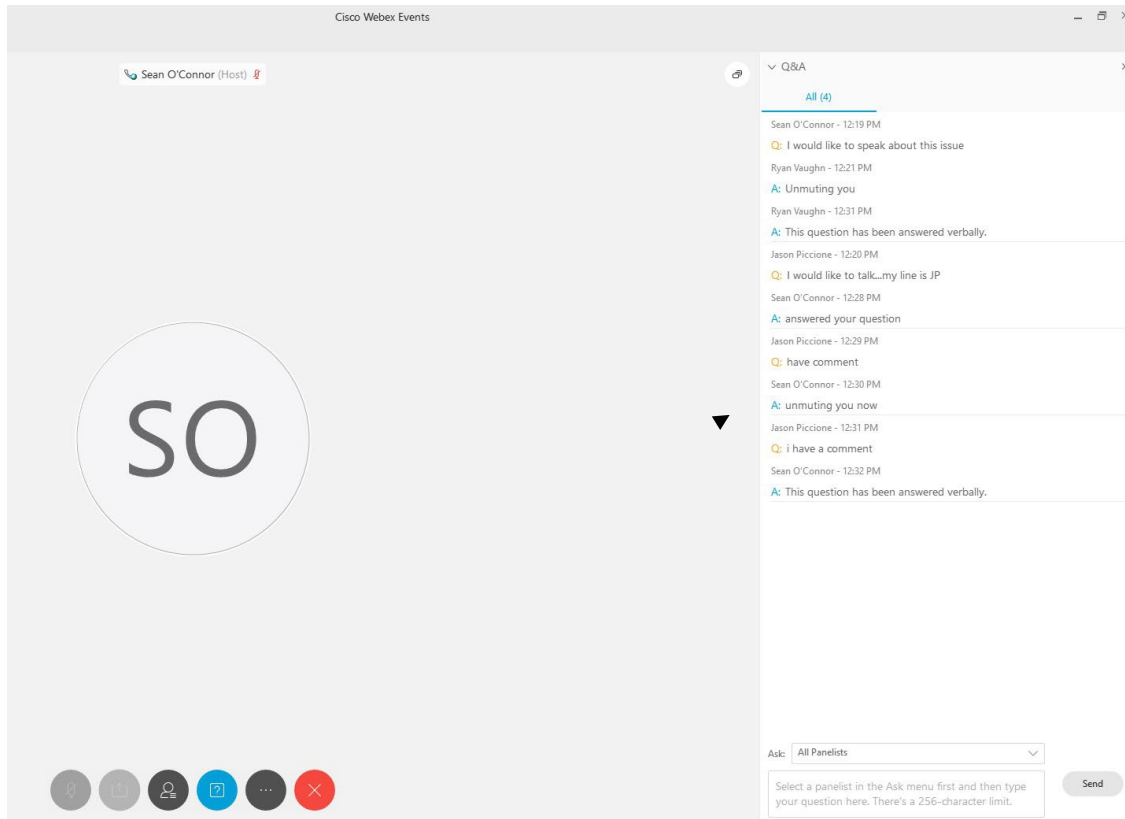
At certain times during the event, the facilitator may call for public comment. If you would like to make a public comment, click on the 'Q and A' button near the bottom, center of your WebEx session.



This will bring up the 'Q and A' chat box.

NOTE: The 'Q and A' button will only be available when the event host opens it during a public comment period.

# HOW TO – Join – DCA WebEx Event



To request time to speak during a public comment period, make sure the 'Ask' menu is set to 'All panelists' and type 'I would like to make a public comment'.

Attendee lines will be unmuted in the order the requests were received, and you will be allowed to present public comment.

NOTE: Your line will be muted at the end of the allotted public comment duration. You will be notified when you have 10 seconds remaining.



**5 -March 2021  
Minutes**



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**BOARD MEETING  
DRAFT Meeting Minutes  
March 25-26, 2021**

**LOCATION:**

Web Ex Teleconference

**Board Members Present**

Dr. Amy Matecki  
Kitman Chan  
John Harabedian  
Dr. Yong Ping Chen, Ph.D.  
Hyun “Francisco” Kim  
Shu Dong Li, Ph.D.  
Ruben Osorio

**Members of the Board**

**Dr. Amy Matecki**, M.D., L.Ac., *President*  
**Kitman Chan**, C.P.A., *Vice President*  
**John Harabedian**, Esq.  
**Dr. Yong Ping Chen**, Ph.D., L.Ac.  
**Hyun “Francisco” Kim**, M.S., L.Ac.  
**Shu Dong Li**, Ph.D.  
**Ruben Osorio**

**Staff Present**

Benjamin Bodea, Executive Officer  
Fred Chan-You, Legal Counsel  
Jay Herdt, Licensing Manager  
Cricket Borges, Enforcement Coordinator  
Kristine Brothers, Policy Coordinator  
David Bruggeman, Policy Analyst

**Full Board Meeting – Thursday, March 25**

**1. Call to Order, Roll Call, and Establishment of Quorum (Dr. Amy Matecki, President)**

Board President, Dr. Amy Matecki (President Matecki), called the meeting to order at 11:32 a.m.

Policy Analyst, David Bruggeman (Bruggeman), called the roll.

**Members Present**

7 Present – Matecki, Chan, Chen, Harabedian, Kim, Li, Osorio



### *7-0 Quorum Established*

It was noted that agenda item 10 (report from the Licensing and Examination Committee) will be moved to after agenda item 3 (Public Comment on Items Not on the Agenda).

## **2. President's Remarks (President Matecki)**

President Matecki expressed her appreciation for the continued support and work of practitioners in serving the public and working with the Board. She noted the beginning of the Occupational Analysis Survey for the state licensing exam and encouraged participation. Four Continuing Education units will be available to those who participate in the analysis, which concludes May 5th. President Matecki ended by thanking the Director of the Department of Consumer Affairs and reaffirming the Board's focus on public protection.

## **3. Public Comment on Items Not on the Agenda (President Matecki)**

The sole commenter noted the importance of history in making good decisions moving forward. In their opinion the questions of the Little Hoover report are relevant today and for the upcoming sunset review. They have forwarded those questions, and their answers, to the Board.

## **4. Report from the Licensing and Examination Committee Chair on March 24, 2021 Committee Hearing (Kitman Chan, Licensing and Examination Committee Chair)**

(Was Item 10 on the Agenda)

Committee Chair Kitman Chan (Chair Chan) noted that the Committee met earlier in the day to discuss regulatory changes around AB 2190 and the use of foreign credential evaluators to assess education and training. Executive Officer Ben Bodea (EO Bodea) went into additional detail. Any evaluator used by the Board would have to be a member of NACES (National Association of Credential Evaluation Services). While the regulations would decrease the potential number of evaluators Board staff can work with, it allows for greater scrutiny of them.

Board Member Chen emphasized the importance of evaluating foreign credentials to ensure state standards. President Matecki concurred, noting that existing language was outdated. Board Member Kim asked if the agency Board staff works with is the same agency doing review of other health care professionals. EO Bodea noted it is not.



No public comment either before or after the motion.

### MOTION

*Member Chan moved to approve the proposed regulatory text for 16 CCR Sections 1399.411, 1399.413, 1399.414, 1399.416, 1399.416.1, 1399.416.2, 1399.417, and 1399.419, direct staff to submit the text to the Director of Consumer Affairs and the Business, Consumer Services, and Housing Agency for review, and if no adverse comments are received, authorize the Executive Officer to take all steps necessary to initiate the rulemaking process, make any non-substantive grammatical and/or technical changes to the package, and set the matter for hearing, if a hearing is requested by the public.*

Member Chen seconded the motion

### Vote

**Yes:** Matecki; Chan; Chen; Harabedian; Kim; Li; Osorio

**7-0 motion passes**

## **5. Review and Possible Approval of the December 17-18, 2020 Board Meeting Minutes (President Matecki)**

### MOTION

*Member Harabedian motioned to approve the December 17-18, 2020 minutes.*

Member Kim seconded the motion.

### Vote

**Yes:** Matecki; Chan; Chen; Harabedian; Kim; Li; Osorio.

**7-0 motion passes**

## **6. Executive Officer's Report (Ben Bodea, Executive Officer)**

### *(A) Budget Update – Fund Condition*

EO Bodea noted that even with the fee increase, the Board is projected to go insolvent in four years. A fee study is planned regularly, with the next one expected sometime during the next 2 fiscal years. (The CE course fees implemented by AB 3330 (2020) are not accounted for in the expenditures projections calculations as there is insufficient data since the fee is new.).





Member Chan asked about options to fix what appears to be a persistent funding issue. EO Bodea notes that spending remains within authorized limits, but reserves are decreasing. He anticipates the next fee study should help identify areas of concern.

#### *(B) Staffing Update*

The Board recently added staff in Policy and Enforcement positions and is finishing the hiring process for a Central Services Manager. It still needs Enforcement staff and Board staff are working to show history of need through part-time employees and moving them into permanent positions.

#### *(C) Business Modernization Update*

Jay Herdt updated the Board on the progress of the Business Modernization project. The project is designed to roll out in phases, with three phases rolled out to date.

#### *(D) Board Services Accepting Credit Card Payments*

At this time, credit cards are accepted for exam and license applicants, as well as acupuncture and wall license renewals. Credit cards for probationers, tutorial students, CE Providers, and CE courses will be rolled out over the next several months.

Member Chen asks if traditional forms of payment are still acceptable, and why there is no space to attach copies of continuing education course transcripts. EO Bodea indicates the Board would like to phase out checks, given the significant overhead involved. Paper forms are still available, though the online application process is encouraged. A list of continuing education courses is not required with application but would be required of the licensee to submit if selected for CE audit.

At present, notices for renewal go out 60 days before the renewal date. Forms are not included with this notice, just a link to the Board's online renewal system. Ideally this notice would shrink to a postcard, with online only renewal a future possibility.

No public comment.

### **7. Licensing Report Q2, FY 20-21 (Jay Herdt, Licensing Manager)**

Herdt reviewed the Licensing data for the second quarter of fiscal year 2020-2021 (September-December 2020). There have been slight increases in Inactive and Delinquent status licenses. No apparent drop in Continuing Education applications. While exam changes and pandemic concerns seem to contribute to a recent decline in exam takers, that decline predates those events going back to the Board's transition to computer based testing; with greater availability of testing sites and dates,



applicants are not rushing to get licensed but taking their time to prepare for the test. Several Board members commented on the passing rates for exams. Member Kim would like to see numbers on passing rates from students in approved out-of-state programs. Member Chan expressed some concerns over the pass rate dropping and was wondering about ways to improve the pass rate of those retaking the exam. Herdt noted that the percentage retaking the exam has dropped since 2018. There are currently no limits on retakes, but the Board could consider that matter if it chooses. The state Office of Professional Examination Services is pleased with how the exam is performing. An overall pass rate between 60-65 percent and a low pass rate for retakers are not bad things.

~

The Board recessed from 1:06 to 1:36 p.m.

Roll Call taken at 1:36 p.m.:

Members Present

6 Present: Matecki, Chan, Chen, Kim, Li, Osorio

*6-0 Quorum*

~

**Public Comment:**

First commenter expressed concern over big changes in pass rate and whether exam was secure. Claims that language requirements are being eliminated by AACOM and new doctoral programs have no Board oversight. Board should place this on a future agenda.

Second commenter shared they are encouraged to hear that the Board has consumer interests in mind. Thanked meeting moderator for doing a great job.

The next commenter noted that ensuring a high passing rate is not the job of the Board. Top schools should have top passing rates.

The final commenter echoed earlier concerns about the security of the exam, citing issues of questions being distributed from online exams

Herdt clarified that the California acupuncture licensing exam is administered via computer at a testing site and it is not an online examination)



## 8. Enforcement Report Q2, FY 20-21 (Cricket Borges, Enforcement Coordinator)

Borges reviewed the second quarter enforcement data from fiscal year 2020-2021 (September-December 2020). Borges noted that a small number of cases that take a long time can easily skew the percentage information. In response to Board member questions, Borges noted that the pandemic likely affected case processing times because of limited hours and staffing at relevant places. It's unclear how much of an impact this has been. Numbers to date are on track for an average year.

### Public Comment:

A commenter was interested in more information about scope of practice violations. They think it would help to communicate common issues or areas of misunderstanding to the profession. Commenter also expressed frustration about cases where licensees waited a long time for disposition, especially when it goes past the point where relevant local authority had dismissed matter. ADA lawsuits against acupuncturists, are they outside the purview of the Board? Wants more interaction with the Board, not just opportunities for comment.

## 9. Legislative Report of 2021 Legislative Bills of Interest to the Board (Kristine Brothers, Policy Coordinator)

After reviewing the 2021 Legislative calendar for the California Assembly and Senate, Brothers presented on bills of interest that have been introduced by the Legislature so far in the 2020-2021 session.

**AB 2** – Staff recommended a Watch position

No public or Board member comments.

### MOTION

*President Matecki moved that the Acupuncture Board take a Watch position with respect to AB 2 [Fong] as introduced on December 7, 2020, for the reasons discussed by members and as reflected in the staff memo.*

Member Chan seconded

### Vote

**Yes:** Matecki, Chan, Chen, Kim, Li, Osorio

**6-0 motion passes**



**AB 29** – Staff recommended a Watch position

President Matecki noted that the Board already makes a good effort to comply with public notice requirements related to meetings and has been quite transparent. Member Kim echoes concerns expressed by staff over the burden the bill might entail.

**MOTION**

*Member Kim moved that the Acupuncture Board take a Watch position with respect to AB 29 [Cooper] as introduced on December 7, 2020, for the reasons discussed by members and as reflected in the staff memo.*

Member Osorio seconded

**Vote**

**Yes:** Matecki, Chan, Chen, Kim, Li, Osorio

**6-0 motion passes**

**AB 54** – Staff recommended a Watch position.

*(Member Harabedian has rejoined the meeting)*

No public or Board member comments.

**MOTION**

*Member Chan moved that the Acupuncture Board take a Watch position with respect to AB 54 [Kiley] as introduced on December 7, 2020, for the reasons discussed by members and as reflected in the staff memo.*

Member Li seconded

**Vote**

**Yes:** Matecki, Chan, Chen, Harabedian, Kim, Li, Osorio

**7-0 motion passes**

**AB 107** – Staff recommended a Watch position

No public or Board member comments.

**MOTION**

*Member Chen moved that the Acupuncture Board take a Watch position with respect to AB 107 [Salas] as amended on February 25, 2021, for the reasons discussed by*



*members and as reflected in the staff memo.*

Member Harabedian seconded

**Vote**

**Yes:** Matecki, Chan, Chen, Harabedian, Kim, Li, Osorio

**7-0 motion passes**

**AB 339** - Staff recommended an Oppose position

No public or Board member comments.

**MOTION**

*President Matecki moved that the Acupuncture Board take an Oppose position with respect to AB 339 [Lee] as introduced on January 28, 2021, for the reasons discussed by members and as reflected in the staff memo.*

Member Chan seconded

**Vote**

**Yes:** Matecki, Chan, Chen, Harabedian, Kim, Li, Osorio

**7-0 motion passes**

**AB 646** – Staff recommended a Watch position

No public or Board member comments.

**MOTION**

*Member Osorio moved that the Acupuncture Board take a Watch position with respect to AB 646 [Low] as introduced on February 12, 2021, for the reasons discussed by members and as reflected in the staff memo.*

Member Harabedian seconded

**Vote**

**Yes:** Matecki, Chan, Chen, Harabedian, Kim, Li, Osorio

**7-0 motion passes**

**AB 885** – Staff recommended a Watch position

No public or Board member comments.



## MOTION

*Member Kim moved that the Acupuncture Board take a Watch position with respect to AB 885 [Quirk] as introduced on February 17, 2021, for the reasons discussed by members and as reflected in the staff memo.*

Member Li seconded

### Vote

**Yes:** Matecki, Chan, Chen, Harabedian, Kim, Li, Osorio

**7-0 motion passes**

~

The Board recessed from 3:02 to 3:16 p.m.

Roll Call taken at 3:16 p.m.:

### Members Present

7 Present: Matecki, Chan, Chen, Harabedian, Kim, Li, Osorio

7-0 Quorum

~

**AB 918** – Staff recommended a Oppose position

Board member comments:

President Matecki wanted to hear from everyone on this legislation. Member Chan described his perspective on the last time switching the exam came up – in 2016. Considers California standards much higher than national/NCCAOM standard. California's exam is less expensive (even with recent fee increase). The primary priority for the Board is public protection.

Member Kim notes a divide within the profession on this matter, stating that the NCCAOM is not a board that exists at the national level and is not recognized as such by federal agencies. He believes the sponsoring organization, the California State Oriental Medical Association, wants to use the bill as means to expand the job market, but disagrees with the approach. He inquired with people in the VA system reporting that they seek veterans, or practitioners established in the medical system with a background in acupuncture. Member Kim doesn't see this as a national exam push. He asked if the sponsor has contacted the Board. EO Bodea replied that he has been



in touch with CSOMA and their office since the bill has been introduced.

Member Li emphasizes a need to keep standards high and to keep the community safe. Member Chen notes that the 2018 Sunset Review raised good points about the two systems. It would not be appropriate to consider the NCCAOM exam the equivalent of national board certification since California is not part of its system. NCCAOM won't conduct due diligence with respect to applicants in the way California does, and there will be other ways to work around California standards. There would be limited legislative control over NCCAOM concerning fees and requirements.

EO Bodea confirmed that NCCAOM would have control over what is charged. The Board would need to develop a California supplemental to the exam, testing what NCCAOM exam doesn't cover. All three modules of the NCCAOM would have to be used. Board oversight of the examination would be reduced to little or none.

Member Chen emphasizes the need for an informed and accountable decision on this step. Important to be careful about proceeding.

*(Member Harabedian has left the meeting)*

President Matecki notes that we have no sense of the cost for developing or administering the supplemental exam. Hard to see how the switch reduces costs for California or students in California. Online test administration has its advantages. Herdt notes the California exam is administered via computers at a testing site but is not online. EO Bodea indicated the sponsoring organization will likely have something to say later in the meeting. He then noted that there is no national standard right now, with the push for the NCCAOM exams as an effort on the part of CSOMA to establish one. States take different approaches. The most recent exam audit shows NCCAOM exam covers most, but not all the competencies required for California licensees. EO Bodea sees professional associations as key to efforts to establish a national standard. He notes that much like in 2016, other associations oppose the bill, and the Board has already received many comments from stakeholders in opposition to the bill.

Member Kim notes that the Medicare agency is working on acupuncture coverage but lacks enough information to determine qualifications. An expanding job market needs improved standards, not watered-down standards.

Member Chan moves to adopt the recommended Oppose position.

### **Public Comment**

Nell Smircina, CSOMA President. The bill only changes the exam and is not seeking to



lower standards. This has been a concern for CSOMA since 2012, and they have been working with stakeholders, including the Board. Open to consider changes. Licensed acupuncturists working at the VA need NCCAOM certification and licensure. The Board would have more time to focus on other tasks if bill passes.

Hongmei from Cal Acupuncture United Association expressed their organization's opposition to the bill. It's a weakening of standards. Doesn't consider NCCAOM certificates a national standard. Sees California exam as ensuring high quality licensees. Doesn't want NCCAOM to have exam monopoly outside of California. Bill doesn't consider results of 2016 audit of NCCAOM exams. Costs will go up.

Third commenter has a specific concern with the bill, that the test language is weak. They don't see a shortage of practitioners, and wonders if measure is intended as a cash grab. It will be hard to undo the bad outcomes anticipated from this bill.

David Quackenbush, with CSOMA. Reiterates intent of bill – replace California licensing exam with the NCCAOM exam. Have started conversations about changing current language to an either/or option. Want to move forward from 2016 letter from Board encouraging this move. Should let California students take one exam and get national certification. He reported that currently 30-40 percent of California acupuncture students take the NCCAOM exam. Bill might relieve costs and other burden staff currently dealing with. Bill will only impact graduating students. Based on conversations to date, they would want implementation no sooner than 2023. Bill will not affect the hour requirements for acupuncture programs or the hour requirements to sit for the exam.

Fifth commenter is not in favor of requiring the NCCAOM exam. Argues that NCCAOM is not accepted in the same way across the 47 states that do accept it. Commenter favors a national standard, and if California exam is deemed superior to NCCAOM, it should be seen as an example for a national standard.

Sixth commenter is member of American Society of Chinese Medicine, which opposes the bill for unclear language around the NCCAOM exam.

Seventh commenter is with California United Acupuncturists Association. Its members are worried about the bill and the organization will likely oppose it.

Eighth commenter is with American Association of Chinese Medicine and Acupuncture, which opposes the bill. They believe it will weaken the profession. They consider NCCAOM certification misleading, while California exam is of high quality. They would not want NCCAOM to have a monopoly on the exam, and do not think a





single national exam can account for variations in training.

Ninth commenter is an acupuncturist with the Academy of Chinese Culture and Health Sciences, echoing many previously noted criticisms of the bill.

The tenth commenter notes that the NCCAOM renewal fee is notably lower than the Board's. At present it costs a student \$1,440 every four years. While people keep saying hours and requirements will change, that is not part of the bill. Thought that the 2016 review indicated the two exams were of comparable quality. If people don't get the national certification the Veterans' Administration wants, the agency will hire other professions that can do acupuncture.

Neal Miller spoke on behalf of CalATMA. They have been contacted by all Chinese and Korean associations in opposition to the bill. Current highest hour standard is Nevada's, with over 5,000 hours required. This is not an NCCAOM bill but is sponsored by CSOMA. Many issues with the bill. Some culturally based, some speculative, some based in fact. There was a lack of outreach to other associations. Board will kill this bill (NOTE: Board cannot actually kill bills, but the Board can take positions on them).

Ron Zaidman of Five Branches University indicated they would oppose the bill as it is premature. Believes profession can unite around national standards and/or a national exam. We have portability under current law, and the bill would limit us rather than expand our scope.

Final commenter is with the United Acupuncture Association. Conversations on this topic go back over 24 years. A national exam would have to account for all the local variation. The Veterans' Administration is focused on its interests, not those of the Board or the profession. Commenter supports the Board position.

### **MOTION**

*Member Chan moved that the Acupuncture Board take an Oppose position with respect to AB 918 [Quirk-Silva] as introduced on February 18, 2021, for the reasons discussed by members and as reflected in the staff memo.*

Member Chen seconded

### **Vote**

**Yes:** Matecki, Chan, Chen, Kim, Li, Osorio

(Member Harabedian was absent for the vote)

**6-0 motion passes**



**AB 1236** – Staff recommended a Watch position

**AB 1386** - Staff recommended an Oppose position

**SB 772** – Staff recommended an Oppose position

No public or Board member comment on any of these bills.

### **MOTION**

*Member Kim moved that the Acupuncture Board take a Watch position with respect to AB 1236 [Ting] as introduced on February 19, 2021; that the Acupuncture Board take an Oppose position with respect to AB 1386 (Cunningham) as introduced on February 19, 2021; and that the Acupuncture Board take an Oppose position with respect to SB 772 (Ochoa Bogh), as introduced on February 12, 2021 for the reasons discussed by members and as reflected in the staff memo.*

Member Li seconded

### **Vote**

**Yes:** Matecki, Chan, Chen, Kim, Li, Osorio

**6-0 motion passes**

## **10. Regulations Update (Brothers)**

Brothers summarizes the status of Board regulatory packages as of the meeting date. She notes that the retirement status license package will not be brought to the Board at this meeting.

No public comment.

## **11. Report on the Commencement of the Occupational Analysis (Herdt)**

Herdt described the Occupational Analysis as a critical component of revising the California Acupuncture Licensing Exam. It helps the exam writers identify gaps in practice areas, laws and regulation that need testing. The Board is providing 4 Continuing Education Units for completing the Analysis. It is available to take until May 5, 2021.

A member of the public asked where the Analysis could be accessed online. There is a link in the What's New section of the Board's website. Board Member Chen recently finished the Analysis, considered it well-designed, and is interested in how it compares



to previous editions. Both the 2008 and 2015 versions of the Occupational Analysis are available online. The participation rate last time was quite low, under 20 percent. The Board is offering the CEU's as a way of encouraging participation.

The item was tabled for further discussion on Day Two of the Board meeting.

## **12. Future Agenda Items (Dr. Amy Matecki, President)**

None offered from the public or the Board.

## **13. Adjournment of Day One**

Meeting Adjourned at 5:19 p.m. PDT.

### **Day Two, Full Board Meeting, March 26, 2021**

## **14. Call to Order, Roll Call and Establishment of a Quorum for Day Two (Dr. Amy Matecki, President)**

The meeting was called to order at 9:36 a.m. PDT.

### Members Present

7 Present: Matecki, Chan, Chen, Harabedian, Kim, Li, Osorio

7-0 Quorum

## **15. President's Remarks (Dr. Matecki)**

President Matecki defers to her remarks from yesterday. She notes how much the Board has been able to do at a distance. The President notes the Occupational Analysis (OA) is ongoing and encourages licensee participation. Matecki thanks everyone at the Department of Consumer Affairs for their support of the Board.

## **16. Public Comment on Items Not on the Agenda**

There were no comments offered on this topic at this point in the meeting.

## **17. Report on the Commencement of the Occupational Analysis (Herdt)**

Echoing remarks from the first day of the meeting, Herdt described the OA and noted the Board is offering CEUs for its completion. It was developed in cooperation with the



Office of Professional and Exam Services. Deadline is May 5<sup>th</sup>, and a report assessing the NCCAOM exam is available on the Board's website.

Commenters noted the need for a high participation rate. The analysis was noticed to licensees by postal mail and through the licensee email listserv. Unfortunately, there has been a lot of returned mail. While giving the Board an email address is optional for licensees, keeping a current mailing address is required by regulation. The new online renewal system will capture this more easily. The Board does not currently use social media.

### **Public Comment:**

First commenter shared the link several places, wanted to know if one could make comments about the analysis.

Neal Miller from CalATMA said the organization has sent it to its membership and has developed resources in other languages to assist those from whom English is not their primary language. More such assistance would be useful.

The next commenter raised an item that they will bring up at a more appropriate point in the meeting.

It was noted that there have been difficulties for some in logging into the meeting. The Board will reopen for comments on items not on the agenda later in the meeting.

The fourth commenter noted the Analysis is only in English, but the licensing exam is given in three languages.

## **18. Consumer and Professional Associations Reports**

### **CSOMA – Nell Smircina**

CSOMA thanks the Board for its flexibility with the agenda. Noting AB 918 and the discussion on it during the first day, they consider it an exciting moment for the profession, which had not advanced any legislation on acupuncture in some time. CSOMA has experienced 40 percent growth since the pandemic, with more corporate sponsorships and member benefits. A new issue of its journal is expected soon.

### **CalATMA, Neal Miller**

CalATMA now has roughly 550 members. It has developed 3 potential bills to address problematic language and new techniques. The organization offers many CEUs each month and is doing a lot of translation work to make things available in Chinese,



Japanese and Korean. Current projects include working on an essential worker designation for acupuncturists to address problems with inconsistent treatment across counties.

## **19. Presentation of CalATMA of Therapeutic Blood Withdrawal**

Neal Miller made a presentation to the Board, primarily covering the topic of therapeutic blood withdrawal, historically referred to as bloodletting or bleeding.

Miller noted that bleeding/bloodletting was one of many terms that he and others want updated to a more modern description like therapeutic blood withdrawal (TBW). Another example would be the use of the word 'Oriental.' He mentioned that TBW is mentioned in regulations for acupuncture curriculum (1399.434, referenced as 'bleeding') but is not part of the scope of practice. He argues that anything covered in curriculum should be part of the scope of practice, and changes to that effect would not constitute an expansion of the scope of practice. There are also items in the regulations for acupuncture (cupping, moxibustion) that are not acupuncture.

Miller argued that the Accreditation Commission for Acupuncture and Oriental Medicine (ACAOM) standards can be used as a guide for revising problematic terms in current California regulations. The Little Hoover report noted inconsistencies between regulations and the scope of practice and Miller suggests it would be a good idea to look for and address such inconsistencies in current regulations.

President Matecki noted that acupuncture for pain management is well understood, but many physicians aren't familiar with the discipline. Miller suggests that since TBW is part of training, adding it in the scope is not really an expansion. Member Kim agrees with Miller that things need to be updated, and would like the Board to discuss this, possibly developing language for legislation. Member Chen is concerned about going too far in what would be acceptable practice for TBW. Miller believes training addresses appropriate limits and suggests there is a difference between failing to meet the standard and excessive technique. Member Osorio echoes interest in putting topic on the Board's agenda. Matecki notes that while there may be an insurance code for the practice, carriers may still benefit from education on the practice.

Miller noted that CalATMA has legislative vehicle to clarify, not expand, scope of practice.

### **Public Comment:**

The first commenter thanked the Board and Mr. Miller for engaging on the topic.



Echoes Millers' point about issues around these techniques not being new. Would like to know what the Board can do to move forward on achieving the change Miller identifies.

Second commenter notes that TBW courses cover safety extensively.

Third commenter echoed interest in making sure statutes and regulations match stating it is our profession and licensees need to claim their procedures. Wants guidance from the Board on what to do next to address the mismatch.

Fourth commenter noted that cupping, while in scope of practice, is not acupuncture.

Fifth commenter noted continued problems with insurance coverage for acupuncture. Perhaps going to a doctoral degree requirement would provide some greater facility to the profession to be recognized and dealt with more fairly.

EO Bodea expresses appreciation for the profession raising the issue. While Board cannot act at this time, it could do so in response to a bill with this language and/or on this topic. Message from the profession is that the technique is safe and effective. Board role is not to define scope, but to enforce the scope established by the legislature.

## **20. Discussion of the New Acupuncture Board Fees (Business and Professions Code sections 4970 and 4971) (Discussion only) (Bodea)**

EO Bodea noted this topic is a carryover from the December 2020 meeting when Board members requested continued discussion on Wall license fees and continuing education fees. The wall license fee was prompted by the 2019 fee study and the 2020 adjustment through AB 779. Stakeholders supported the implementation of the wall license (prior to the fee increase). Wall licenses/place of practice licenses are not unique to the Board. EO Bodea encourages licensees to not flout current requirements.

The Continuing Education fees at issue are specifically those for previously approved courses. Like the Wall license, they were brought up in 2019 and in 2020.

Board Counsel Fred Chan-You researched the matter of whether the Board could set a lower fee. The research indicated that legislature did not give the Board authority to set a fee lower than what statutory authority required. Not paying the fee would not prevent the course being offered. It would prevent licensees from receiving credits for those courses.

Board members had comments. Member Harabedian wondered why renewed



courses were charged the same as new courses. EO Bodea notes the continuing education fees cover more than the application, and include review, monitoring, auditing and enforcement. Board is currently challenged to conduct sufficient audits. Courses are limited to a certain number of hours, and shorter courses are easier to oversee.

Stipulating to a previously approved course being unchanged would save time on the application end, but would not reduce obligations in review, monitoring, auditing or enforcement. EO Bodea noted that continuing education is becoming an issue of interest for the Department of Consumer Affairs. Member Chen understands the need for the fees, and notes that in-person courses will have different needs than distance learning courses. Member Chan also understands the need for the fees, given the situation with Board reserves.

~

The Board recessed from 11:43-11:52

Roll Call taken at 11:52 a.m.:

Members Present

7 Present: Matecki, Chan, Chen, Harabedian, Kim, Li, Osorio

*7-0 Quorum*

~

**Public Comment**

The first commenter likes the idea of attesting to whether a course has been modified or not. Disagrees with Board Counsel's analysis about Board ability to set a lower fee.

Second commenter notes that fee study did not consider renewal fees. Also argues that the renewal fee is effectively a tax. Believes smaller providers will go out of business.

Third commenter represents the American Association of Chinese Medicine and Acupuncture. Organization opposed to the Wall license fees. Asks if continuing education applications can be done online.

Fourth commenter has technical issues and we intend to return to them

Fifth commenter wonders if a plan couldn't be developed where continuing



education providers received some set number of approvals at no cost, a graduated scale.

Sixth commenter argues the fee is unprecedented and would lead to loss of content. Considers it a tax rather than a fee. References letter sent to the Board urging a new structure for renewal fees. Believes Board has a responsibility to solve this situation and has the authority to set a lower fee.

Fourth commenter is back. They are with Emperor's College and feels the Board should give special consideration to schools with respect to fees.

Seventh commenter is with the Academy of Chinese Integrative Medicine and Pain Management and believes that not all providers have quality programs. They would like to see that improve.

The eighth commenter sees the wall license as an unnecessary tax. They feel the process wasn't proper and is working with legislature to resolve this. Discusses school curricula and the trend toward increasing hours in doctoral programs. Issue is not going away. Recommends Board form a task force to address the matter. Agrees with many other commenters today, including the fee actually being a tax.

Member Kim echoed his feelings from yesterday, that discussions like the one happening now are better done within the profession. Once the profession has a sense of what to do they can approach the Legislature or the Board. Member Harabedian appreciates the staff's work on the matter and would like to see them continue to work with stakeholders. He believes we can find a way to have financial stability without losing providers.

EO Bodea closed the topic by noting the Board cannot make changes at this time, only the Legislature can. The Board will continue to do fee studies, and the continuing education fees have not been included in the current financial analysis of the Board. If the fees were taxes, Legislative Counsel would have identified it as such when the relevant bills were going through the legislative process.

## **21. Discussion and Possible Action to Initiate a Rulemaking to Amend Title 16, CCR §§ 1399.483, 1399.489: Continuing Education Ethics Requirements (Herdt)**

The Board has discussed including law and ethics in continuing education requirements since at least 2012. The staff recommendation is a requirement of 4 hours of continuing education every 2 years. Inactive licensees would also need to complete this requirement to regain active status. The proposed regulations would





require a self-assessment test for all ethics courses (currently required only for independent/home study courses), indicate that students are not obligated to purchase any products, and would be required only for active licensees outside of their initial license period. The regulation package also includes non-substantive changes such as renumbering sections

Member Kim agrees with the staff recommendation, as does Member Chen.

**Public Comment:**

First commenter agrees with the need for the requirement but wonders where the 4 hours comes from. Commenter lists other acupuncture bodies that require fewer hours.

Second commenter likes the direction of the proposal and would like to know how they can comment on language as it proceeds.

Third commenter is Neal Miller from CalATMA, which is working on an ethics course and has been for some time. It would be extensive, many credit hours, well suited for training programs and continuing education (a 2-hour course). Within a few months of being able to apply for approval. Feels Board proposal is discriminatory (*Note – possibly because of the 4-hour requirement?*) and disagrees with the four-hour requirement.

The fourth commenter thinks it should be a two-hour requirement and wants to be involved in whatever group develops the course.

The fifth commenter emphasized the need for this kind of course, and to keep practitioners away from gray areas. They should take ethics courses every renewal cycle.

~

The Board recessed from 12:56 to 1:32

Roll Call taken at 1:35 p.m.:

Members Present

7 Present: Matecki, Chan, Chen, Harabedian, Kim, Li, Osorio

7-0 Quorum

~

Licensing Manager Herdt summarizes the continuing education ethics requirement that was discussed before the lunch recess.



The requirements would typically be met with 2 hours in laws and regulations, with the other 2 in ethics. The four-hour requirement is consistent with requirements in place for other Boards in the Department of Consumer Affairs. Standards on ethics are usually developed by the profession.

EO Bodea noted the number of commenters who wanted to be involved in developing the language. The Board has been engaged with stakeholders on these requirements since at least 2016. There will be opportunities for public comment in the regulatory process. Bodea reviewed the language, and the changes agreed to in 2016 and 2018.

Member Chen emphasized the history behind the current language and moved to put the proposed regulation changes through the regulatory process.

**Public comment** continued.

Neal Miller from CalATMA reiterated his earlier comments that this is needed, and there is agreement within the community, and that his organization was being treated unfairly. Why four hours and not two? The Board should discuss this. Licensing Manager Herdt noted that the proposed language was consistent with many other boards in the Department of Consumer Affairs. Herdt noted that courses in this area should help address our concerns over unprofessional conduct and provide some stability for the independent workers in the profession.

### **MOTION**

*Member Chen moved to approve the proposed regulatory text for Title 16, CCR section 1399.482 and 1399.489, direct staff to submit the text to the Director of Consumer Affairs and the Business, Consumer Services and Housing Agency for review, and if no adverse comments are received, authorize the Executive Officer to take all steps necessary to initiate the rulemaking process, make any non-substantive grammatical and/or technical changes to the package, and set the matter for hearing, if a hearing is requested by the public.*

Member Harabedian seconded

### **Vote**

**Yes:** Matecki, Chan, Chen, Harabedian Kim, Li, Osorio

**7-0 motion passes**

## **22. Discussion and Possible Action to Initiate a Rulemaking to Amend Title 16, CCR §**



### **1399.452.1: Standards of Practice for Telehealth Services (Herdt)**

Licensing Manager Herdt outlined recent statewide actions that encouraged the practice of telehealth during the COVID-19 pandemic. The Board has issued guidelines in this area, and licensees have statutory authority (BPC section 2290.5) to provide services via telehealth. Staff believes further guidelines and regulations are needed. The Licensing and Examination Committee reviewed the proposed language at its December 2020 meeting. The Board requested additional amendments at its December 2020 meeting and for the amended language to be considered at this meeting.

The proposed regulations would be a new section, 1399.452.1 of the California Code of Regulations, titled “Standards of Practice for Telehealth Services.” The section outlines the necessary conditions for a licensee to provide acupuncture services via telehealth. The licensee must have a valid license in good standing. They must obtain informed consent and document this consent to provide services via telehealth. The licensee must determine whether delivery of services via telehealth is appropriate. The licensee is obligated to take reasonable steps to transmit electronic information securely and to notify patients immediately of any data breaches or unauthorized dissemination. The licensee must comply with all other relevant acupuncture laws and regulations.

Board Member Kim sees some overlap on this issue with the ethics matters discussed earlier. Perhaps issues around telehealth provision can be covered in continuing education courses. We have to make sure telehealth provision does not go outside standards of practice or ethics.

Member Harabedian moved to adopt the proposed language with an amendment encouraging the associations and other stakeholders of the profession to include telehealth in considerations of ethics.

#### **Public Comment**

First commenter sees this move as too late, with telehealth widely practiced. Can't look to associations to spread the information, only cover about a quarter of the profession. What do national organizations say? Is the Board actually going to stop what's already being done? Would seek amendment to require a referral for providing telehealth. Inclined to wait.

Second commenter would also seek to wait. There's been a lot of talk on this matter online. Commenter wants an opportunity to work with the Board on the matter.



Board Member Kim notes that some licensees are working this out online, but many have not due to language or technical limitations. Not sure what to change in the language but would like to postpone a vote to a subsequent meeting after hearing from staff.

EO Bodea seeks to better understand the interest in waiting. Intent of the language is to clarify in regulations how things are being done. The authority to do this is clear. Herdt and Member Chen both encourage those hesitant to read BPC 2290.5. Member Kim indicates his concerns have been addressed.

President Matecki and EO Bodea are both unsure about what stakeholders are concerned about. There will be opportunity to comment during the regulatory process.

### **Second Round Public Comment**

The first commenter noted they are not a telehealth provider and that no one on the Board is either. They don't believe enough is known about telehealth to set regulations at this time. Those engaged in acupuncture through telehealth likely outnumber those who don't and aren't engaged with the associations.

The second commenter is encouraged by the Board's actions and considers the process sound. Many faculty members are engaged in telehealth now. They feel the intent is clear, that it comes from the Governor, and thanks the Board for their actions.

Third commenter agrees with both previous commenters. Would like more clarification on the language and wants to make sure that practitioners not engaged in telehealth can understand what is going on. They also have other options for communications to acupuncturists.

EO Bodea notes that the Board has been discussing the telehealth issue since the start of the pandemic. Bodea would hope that those who have experienced issues would have spoken up by now. This language provides clarification to the authority that Board licensees have to facilitate telehealth.

Member Harabedian notes that the motion stands but would like to hear from other members. Member Kim better understands the rationale behind the regulation, and there will be an opportunity to revisit the issue should problems arise. Member Chen was expecting something more substantive from stakeholders on what to change. Members Osorio and Li agree that the Board should move forward. Member Chan notes future comment period would be a way to address future concerns. President Matecki sees this issue as a means of advancing the profession.



## MOTION

*Member Harabedian moved to approve the proposed regulatory text for Title 16, CCR section 1399.452.1, direct staff to submit the text to the Director of Consumer Affairs and the Business, Consumer Services and Housing Agency for review, and if no adverse comments are received, authorize the Executive Officer to take all steps necessary to initiate the rulemaking process, make any non-substantive grammatical and/or technical changes to the package, and set the matter for hearing, if a hearing is requested by the public. The Board also communicates to the profession its interest in making sure telehealth is given due consideration in standards of ethics.*

Member Chen seconded

## Vote

**Yes:** Matecki, Chan, Chen, Harabedian Kim, Li, Osorio

**7-0 motion passes**

### **23. Discussion and Possible Action on the Regulatory Package Related to Align Curriculum Standards and Approval Related Regulations with Statute (David Bruggeman, Policy Analyst)**

Policy Analyst Bruggeman outlined the proposed actions for the Board in connection with the regulatory package for Curriculum Oversight Authority. The proposed changes offered at this meeting are an addition to the regulatory language the Board approved at its August 2019 meeting. Because the proposed changes in this regulatory package overlap with the proposed changes in the action the Board took on AB 2190, staff recommends that the Board revise the proposed regulations to ensure that only one package affects change in a single section of the California Code of Regulations (CCR). All changes to CCR section 1399.415 will be handled in this package, while all changes to CCR section 1399.416 were addressed in the package for AB 2190, which the Board approved earlier in this meeting.

Additionally, one of the changes approved by the Board in August 2019 was not accurately captured in the minutes, and staff is recommending the Board revise the minutes to reflect the change.

~

The Board recessed from 3:06-3:30 for staff and Board Counsel to clarify the necessary motions.



Roll Call taken at 3:31 p.m.:

Members Present

7 Present: Matecki, Chan, Chen, Harabedian, Kim, Li, Osorio

7-0 Quorum

~

Bruggeman noted that previous Board action changed the required Board actions on this agenda item. Board member Harabedian asked clarifying questions about the remaining motions the staff recommended the Board make.

**Public Comment**

First commenter wanted to speak on applications of herbs, will make her comment during a subsequent comment period.

The Board is being asked by staff for two motions, one to amend the minutes of the August 2019 meeting and another to adopt regulatory language for CCR 1399.415

No public comment for either motion.

**MOTION**

*Member Kim moved to direct staff to correct page 19 of the August 15-16, 2019 Board meeting minutes. The specific change is to remove the first use of the word 'of' in the quoted text changing 16 CCR 1399.439*

Member Harabedian seconded

**Vote**

**Yes:** Matecki, Chan, Chen, Harabedian Kim, Li, Osorio

**7-0 motion passes**

**MOTION**

*President Matecki moved to approve the proposed regulatory text for Title 16, CCR section 1399.415, direct staff to submit the text to the Director of Consumer Affairs and the Business, Consumer Services and Housing Agency for review, and if no adverse comments are received, authorize the Executive Officer to take all steps necessary to initiate the rulemaking process, make any non-substantive grammatical and/or technical changes to the package, and set the matter for hearing, if a hearing is requested by the public.*



Member Osorio seconded

**Vote**

**Yes:** Matecki, Chan, Chen, Harabedian Kim, Li, Osorio

**7-0 motion passes**

**24. Future Agenda Items (Dr. Matecki)**

Member Chen would like to have a discussion focused on what services can be delivered over telehealth.

President Matecki would like to see a discussion of continuing education requirements and how the Board's requirements compare to other boards in the Department of Consumer Affairs.

**Public Comment**

First commenter asks for actionable steps to address the continuing education fee objections. Believes Board can act to reduce them and should do so quickly.

Second commenter notes the 50-hour requirement for continuing education is historical. Asks if a single CE course would be counted multiple times if offered in different languages and/or multiple times a year. Would like to see the following topics addressed by the Board: injection therapy, minimum hour requirements for curriculum, removal of racist and other problematic language from laws and regulations.

The third commenter wants to see the Board create renewal fees for continuing education courses.

Fourth commenter wants to see the Board to set up Continuing Education renewal fees, as well as a discussion of movement toward a national standard in the profession. Also wants to see consistency in definitions of practice in laws and regulations.

Fifth commenter proposes a council of associations in the profession around traditional medicine pain management and will send the full proposal to the Board.

Sixth commenter is with an herbs association and would like to see the Board discuss the provision of herbs in a future meeting.

Seventh commenter would like to see expanding scope to include injection therapy on a future agenda.

President Matecki solicited final comments from Board members. Members Osorio and Kim would like to see discussion of consent forms and whether the Board can or should



update them. Member Li would like to see consideration of herb, and for exercise therapy (qigong, tai chi). Member Chen notes that the forms are not required in regulations, but typically by malpractice insurance. Are licensees required to carry insurance? Member Kim noted that many of these topics are outside the scope of the Board's business and are more appropriately addressed by the profession and/or the legislature.

#### **25. Public Comments on Items Not on the Agenda (President Matecki)**

President Matecki offers the public a chance to comment on items not on the agenda. None were offered.

EO Bodea wanted to thank Regulatory Counsel Clay Jackson for his service to the Board. Jackson is leaving state service shortly after the Board meeting and has been a great help in guiding Board's regulatory packages through the regulatory process.

The Board's next meeting is June 24-25, 2021.

#### **26. Adjourn for Day Two (President Matecki)**

The Board adjourned at 4:35 p.m..





## **6 - Budget Update**

**0108 - CA Acupuncture Board Fund Analysis of Fund Condition  
(Dollars in Thousands) 2021-22 Governor's Budget with FM 10  
Projections**

	<b>PY 2019-20</b>	<b>CY 2020-21</b>	<b>BY 2021-22</b>	<b>BY+1 2022-23</b>	<b>BY+2 2023-24</b>
<b>BEGINNING BALANCE</b>	\$4,043	\$3,720	\$2,656	\$1,961	\$1,134
Prior Year Adjustment	-\$277	\$0	\$0	\$0	\$0
Adjusted Beginning Balance	\$3,766	\$3,720	\$2,656	\$1,961	\$1,134
 <b>REVENUES, TRANSFERS AND OTHER ADJUSTMENTS</b>					
Revenues					
4121200 - Delinquent fees	\$12	\$15	\$76	\$76	\$76
4127400 - Renewal fees	\$1,907	\$2,547	\$2,936	\$2,936	\$2,936
4129200 - Other regulatory fees	\$51	\$99	\$194	\$194	\$194
4129400 - Other regulatory licenses and permits	\$317	\$515	\$598	\$598	\$598
4150500 - Interest from interfund loans	\$30	\$0	\$0	\$0	\$0
4163000 - Income from surplus money investments	\$95	\$23	\$28	\$20	\$6
4171400 - Escheat of unclaimed checks and warrants	\$2	\$4	\$2	\$2	\$2
 Totals, Revenues	\$2,414	\$3,203	\$3,834	\$3,826	\$3,812
 Transfers and Other Adjustments	\$1,000	-\$186	\$0	\$0	\$0
 <b>TOTALS, REVENUES, TRANSFERS AND OTHER ADJUSTMENTS</b>	\$3,414	\$3,017	\$3,834	\$3,826	\$3,812
 <b>TOTAL RESOURCES</b>	\$7,180	\$6,737	\$6,490	\$5,787	\$4,946

	<b>PY</b>	<b>CY</b>	<b>BY</b>	<b>BY+1</b>	<b>BY+2</b>
	<b>2019-20</b>	<b>2020-21</b>	<b>2021-22</b>	<b>2022-23</b>	<b>2023-24</b>
<b>EXPENDITURES AND EXPENDITURE ADJUSTMENTS</b>					
Expenditures:					
1111 Program Expenditures (State Operations)	\$3,231	\$3,890	\$4,138	\$4,262	\$4,390
9892 Supplemental Pension Payments (State Operations)	\$43	\$43	\$43	\$43	\$43
9900 Statewide Pro Rata	\$186	\$148	\$348	\$348	\$348
<b>TOTALS, EXPENDITURES AND EXPENDITURE ADJUSTMENTS</b>	<b>\$3,460</b>	<b>\$4,081</b>	<b>\$4,529</b>	<b>\$4,653</b>	<b>\$4,781</b>
<b>FUND BALANCE</b>					
Reserve for economic uncertainties	\$3,720	\$2,656	\$1,961	\$1,134	\$165
Months in Reserve	10.9	7.0	5.1	2.8	0.4

**NOTES:**

Assumes workload and revenue projections are realized in BY +1 and ongoing.  
 Expenditure growth projected at 3% beginning BY +1.

Department of Consumer Affairs

Expenditure Projection Report

Acupuncture Board

Fiscal Month: 10

Fiscal Year: 2020 - 2021

PERSONAL SERVICES

Fiscal Code	Line Item	PY Budget	PY FM13	CY Budget	YTD	Projections to Year End	Balance
5100	PERMANENT POSITIONS	\$911,000	\$743,821	\$865,000	\$632,316	\$770,288	\$94,712
5100	TEMPORARY POSITIONS	\$19,000	\$62,660	\$19,000	\$27,809	\$37,282	-\$18,282
5105-5108	PER DIEM, OVERTIME, & LUMP SUM	\$12,000	\$6,300	\$12,000	\$18,407	\$20,807	-\$8,807
5150	STAFF BENEFITS	\$573,000	\$440,703	\$536,000	\$346,482	\$423,872	\$112,128
	<b>PERSONAL SERVICES</b>	<b>\$1,515,000</b>	<b>\$1,253,484</b>	<b>\$1,432,000</b>	<b>\$1,025,013</b>	<b>\$1,252,249</b>	<b>\$179,751</b>

OPERATING EXPENSES & EQUIPMENT

Fiscal Code	Line Item	PY Budget	PY FM13	CY Budget	YTD	Projections to Year End	Balance
5301	GENERAL EXPENSE	\$79,000	\$18,294	\$79,000	\$5,157	\$44,123	\$34,877
5302	PRINTING	\$18,000	\$4,382	\$18,000	\$127	\$5,838	\$12,162
5304	COMMUNICATIONS	\$18,000	\$2,810	\$18,000	\$2,455	\$2,946	\$15,054
5306	POSTAGE	\$28,000	\$1,382	\$28,000	\$7,020	\$8,424	\$19,576
5308	INSURANCE	\$0	\$30	\$0	\$4,643	\$4,643	-\$4,643
53202-204	IN STATE TRAVEL	\$34,000	\$17,444	\$34,000	\$9,192	\$11,030	\$22,970
53206-208	OUT OF STATE TRAVEL	\$0	\$1,002	\$0	\$0	\$0	\$0
5322	TRAINING	\$4,000	\$34,752	\$4,000	\$0	\$4,000	\$0
5324	FACILITIES	\$65,000	\$134,198	\$65,000	\$110,312	\$151,279	-\$86,279
53402-53403	C/P SERVICES (INTERNAL)	\$577,000	\$293,917	\$539,000	\$211,414	\$292,174	\$246,826
53404-53405	C/P SERVICES (EXTERNAL)	\$1,066,000	\$366,798	\$1,170,000	\$359,042	\$633,360	\$536,640
5342	DEPARTMENT PRORATA	\$874,000	\$798,566	\$959,000	\$945,083	\$959,000	\$0
5342	DEPARTMENTAL SERVICES	\$334,000	\$283,506	\$334,000	\$279,719	\$514,559	-\$180,559
5344	CONSOLIDATED DATA CENTERS	\$4,000	\$10,493	\$4,000	\$13,500	\$15,000	-\$11,000
5346	INFORMATION TECHNOLOGY	\$5,000	\$790	\$43,000	\$12,934	\$21,733	\$21,267
5362-5368	EQUIPMENT	\$66,000	\$58,625	\$0	\$9,034	\$31,536	-\$31,536
5390	OTHER ITEMS OF EXPENSE	\$3,000	\$1,730	\$3,000	\$0	\$2,000	\$1,000
54	SPECIAL ITEMS OF EXPENSE	\$0	\$1,459	\$0	\$0	\$0	\$0
	<b>OPERATING EXPENSES &amp; EQUIPMENT</b>	<b>\$3,175,000</b>	<b>\$2,030,178</b>	<b>\$3,298,000</b>	<b>\$1,969,631</b>	<b>\$2,701,645</b>	<b>\$596,355</b>

<b>OVERALL TOTALS</b>	<b>\$4,690,000</b>	<b>\$3,283,662</b>	<b>\$4,730,000</b>	<b>\$2,994,645</b>	<b>\$3,953,894</b>	<b>\$776,106</b>
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16.41%



**8 - Board  
Strategic  
Plan Update**

# Strategic Plan Update - June 2021

## Goal 1: Licensing

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*Establishes and maintains licensing requirements that protect consumers through improving standards in licensing examination, continuing education, and access to the profession.*

- 1.1 Develop and implement a computerized licensing examination to increase access and facilitate entry into the profession.

**Status:** Completed October 2018

- 1.2 Seek legislative or regulatory authority to require a passing Test of English as a Foreign Language (TOEFL) score for applicants who have completed their education in a language other than English to enhance communication with the healthcare industry.

**Status:** This item was presented to the Acupuncture Board Licensing and Examination Committee at its June 13, 2019, Meeting. The Committee requested additional information regarding setting TOEFL requirements so that the Acupuncture Board may match the standard set for those Acupuncture practitioners trained domestically and whom take the exam in English as established by the Accreditation Commission for Acupuncture & Oriental Medicine (ACAOM). ACAOM published a new version of their Comprehensive Standards and Criteria in May of 2020. Staff will review and bring back an analysis to the Licensing and Examination Committee for their consideration.

- 1.3 Research the feasibility of establishing a clinical inspection program to promote compliance with the laws and regulations governing the practice of acupuncture in California.

**Status:** Pending start – Anticipated start date Q4 2021.

- 1.4 Improve pocket license material quality to reduce fraudulent activity.

**Status:** Staff have started researching contractors. Contracts cannot be completed until the Board has completed implementing all licensing functions in the Connect system in Q4 of 2021.

## Goal 2: Enforcement

---

*Protects the health and safety of consumers through the enforcement of the laws and regulations governing the practice of acupuncture.*

- 2.1 Develop and implement the continuing education provider audit process to increase compliance.

**Status:** In progress. Commenced in fiscal year 2019-20 Q3, and paused during the pandemic. Audits will resume after emergency waivers for continuing education expire.

- 2.2 Recruit additional Subject Matter Experts (SMEs) to meet the needs of the Examination, Enforcement, and Education Units to increase enforcement resources.

**Status:** Ongoing. Board Licensing staff are working with the Office of Professional Examination Services to recruit Exam SMEs. The Board has contracted two new enforcement SMEs in the last year. Board staff will continue these outreach efforts to ensure the Board meets its needs.

- 2.3 Research the feasibility of requiring licensees to maintain medical records in English to facilitate enforcement efforts and increase accessibility.

**Status:** Pending. Anticipated start date Q1 2022.

- 2.4 Update the Board's Disciplinary Guidelines to preserve consistency, fairness, and ensure effective consumer protection when taking disciplinary actions against licensees.

**Status:** In progress. The Board approved modified text and updates to Guidelines to align with AB 2138 at the December 2020 Board meeting. The Initial draft of the Initial Statement of Reasons (ISOR) is with Legal Affairs for review. Anticipated filing date is in July 2021.

- 2.5 Amend regulations to implement the Uniform Standards Regarding Substance-Abusing Healing Arts Licensees, developed pursuant to Senate Bill No. 1441 (2007-2008 Sess.), to safeguard the health and safety of licensees and consumers.

**Status:** In progress. This is a part of the Disciplinary Guidelines regulatory package. The Board approved modified text and updates to Guidelines to align with AB 2138 at the December 2020 Board meeting. The Initial draft of the Initial Statement of Reasons (ISOR) is with Legal Affairs for review. Anticipated filing date is in July 2021.

### Goal 3: Education

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*Advance education standards to increase the quality of education and ensure consumer protection.*

- 3.1 Research and develop transfer credit evaluation policies and procedures to ensure compliance with education requirements.

**Status:** In Progress. For internationally trained applicants per AB 2190, regulatory language is being reviewed by the Board during the June 2021 Board meeting.

- 3.2 Conduct a cost analysis on training program curriculum application reviews to properly allocate costs and ensure training program compliance.

**Status:** Completed in 2019 Fee Study. Will include in next planned Fee Study in 2022-23.

- 3.3 Review current curriculum standards to ensure it prepares licensees for entry level practice and consumer safety.

**Status:** The 2020-21 Occupational Analysis Survey (OA) is complete. The Office of Professional Examination Services will submit the OA final report to the Board by June 30, 2021.

- 3.4 Define what constitutes "live continuing education courses" to ensure that hands-on training for continuing education in treatment methods is received in the proper setting with the appropriate supervision to practice on the public.

**Status:** Pending.



## Goal 4: Legislation and Regulation

---

*Advocates for statutes and adopts regulations, policies, and procedures that strengthen and support its mandate, mission, and vision.*

- 4.1 Recommend legislation relating to the number of times an applicant can take the examination for licensure to reduce fraud and enhance qualification of licensees.  
**Status:** Pending.
- 4.2 Investigate the feasibility of obtaining site inspection authority of licensees to increase enforcement resources and access.  
**Status:** Pending.
- 4.3 Seek legislative citation authority over curriculum violations of training programs to enforce existing curriculum requirements established in regulation.  
**Status:** Pending.
- 4.4 Review and update regulations to align with existing statutory requirements.  
**Status:** Completed – AB 3330.  
In progress. SB 1236; AB 2190; AB 2138; SB 1441; SB 1448.
- 4.5 Research and seek amendments to Business and Professions Code section 4935, subdivision (a)(2) to increase the penalty for violations to be equivalent with the penalty provided by Business and Professions Code section 585 and to further deter violations and enhance consumer protection.  
**Status:** Pending.
- 4.6 Implement a continuing education course and monitoring fee structure pursuant to Business and Professions Code section 4945, subdivision (b) to allocate the cost of the process to the continuing education provider applicant.  
**Status:** Completed with the implementation of AB 3333 on January 1, 2021.

## Goal 5: Outreach

---

*Educates consumers, licensees, and stakeholders about the practice and regulation of the acupuncture profession.*

- 5.1 Develop and implement a communication plan to inform the public about the practice and regulation of the acupuncture profession.

**Status:** In progress. Communication Plan has been developed in collaboration with DCAs Office of Public Affairs. ListServ functionality operative in 2020. Twitter and Facebook sites planned for Summer/Fall of 2021.

- 5.2 Develop and release a digital newsletter to inform, educate, and update the public on the practice of acupuncture in California.

**Status:** Pending.

- 5.3 Determine and communicate licensing reciprocity to and from California to convey California's standards to the public and ensure consumer protection.

**Status:** Completed. Presented at the October 2018 Board meeting.

- 5.4 Update and publish an informational brochure to educate the public on the standards of practice.

**Status:** Completed. Based on the guidance by Legal Counsel, the brochure represents a conflict of interest for the Board as the Board's role is not to promote the profession but to regulate it. It is within the profession's purview to provide information about acupuncture services.

## Goal 6: Board Administration

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*Continues to build and maintain an excellent organization through the development of staff, responsible management, strong leadership, and effective Board governance.*

- 6.1 Conduct a yearly workload study to ensure adequate staffing levels.

**Status:** 2018 – Completed for Business Modernization Budget Change Proposal (BCP).

2019 – Completed during 2019 Fee Study.

2020 – Completed for Business Modernization 2<sup>nd</sup> year BCP.

2021 – In progress

- 6.2 Map the Board's business processes to procure an information technology system that addresses the Board's functions.

**Status:** The business process mapping for the Licensing and Enforcement units were completed in Spring 2018. The Administrative unit is finalizing the mapped process now. Anticipated completion date Summer 2021.

- 6.3 Conduct a fee study at the appropriate time to address the Board's budgetary structural imbalance.

**Status:** Completed. Presented at the August 2019 Board Meeting.

- 6.4 Respond to the Department of Consumer Affairs' routine internal audit to address any findings.

**Status:** 360-day follow-up report submitted to DCA Audit Office in February 2020.

- 6.5 Expand targeted training and materials to educate Board members on Board governance and subject matter.

**Status:** Paused with the vacancy of the Central Services Manager. Anticipated to resume in the Fall of 2021.



## **9 - Licensing Report**

### Fiscal Year 2020/21 Acupuncture Licensing Report

License Status	Q1 Jul - Sep	Q2 Oct - Dec	Q3 Jan - Mar	Q4 April - June
Active	12248	12224	12195	-
Inactive	2286	2299	2331	-
Delinquent	1106	1160	1197	-
Cancelled	50	46	82	-
Initial License Applications Approved	64	72	63	-
Initial License Applications Denied	0	0	0	-
License Renewals	1641	1789	1340	-

### Fiscal Year 2020/21 Continuing Education Report

Type	Q1 Jul - Sep	Q2 Oct - Dec	Q3 Jan - Mar	Q4 April - June
New CE Provider Applications Approved	17	33	16	-
CE Provider Applications Denied	0	0	0	-
Course Applications Received	781	921	575	-
Course Applications Approved	718	884	570	-
Course Denials	63	37	5	-
CE Providers Current as of June 2020	590	542	523	-
Total CE Provider Numbers Issued to Date	1697			

### Fiscal Year 2020/21 Application for Board Approval of Curriculum (ABAC)

ABAC	Q1 Jul - Sep	Q2 Oct - Dec	Q3 Jan - Mar	Q4 April - June
ABAC - Received	0	5	2	-
ABAC - Incomplete	0	0	0	-
ABAC - Approved	2	0	5	-
Loss of Approval	2	0	1	-

### Fiscal Year 2020/21 Acupuncture Tutorial Training Programs

Type	Q1 Jul - Sep	Q2 Oct - Dec	Q3 Jan - Mar	Q4 April - June
Applications Received	4	6	4	-
New Program Approvals	1	3	5	-
Programs Completed	1	1	1	-
Programs Terminated, Abandoned	13	1	1	-
Total Approved Programs	34	35	38	-



**10 -  
Enforcement  
Report**



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<b>DATE</b>	June 24-25, 2021
<b>TO</b>	Board Members
<b>FROM</b>	Cricket Borges, Enforcement Coordinator
<b>SUBJECT</b>	<b>Enforcement Update for Quarter (Q3) FY 2020/2021: January 1, 2021 to March 31, 2021</b>

**COMPLAINTS/CONVICTIONS & ARRESTS**

<b>DCA Category</b>		<b>Received</b>
<b>Unprofessional Conduct</b>	<b>Sub-Total</b>	<b>11</b>
• <i>Misrepresentation as Doctor (Dr.)</i>	4	
• <i>Misleading Advertising</i>	1	
• <i>Issue with Patient Records</i>	2	
• <i>Office Conduct</i>	2	
• <i>Address Change/Register Business Address</i>	2	
<b>Unlicensed/Unregistered</b>		<b>1</b>
<b>Criminal Charges/Convictions**</b>		<b>4</b>
• <i>Applicants</i>	0	
• <i>Licensees</i>	4	
<b>Sexual Misconduct</b>		<b>1</b>
<b>Fraud</b>		<b>2</b>
<b>Non-jurisdictional</b>		<b>3</b>
<b>Incompetence/Negligence</b>		<b>3</b>
<b>Unsafe/Unsanitary Conditions</b>		<b>0</b>
<b>Other</b>		<b>0</b>
<b>Substance Abuse/Drug &amp; Mental/Physical Impairment</b>		<b>0</b>
<b>Discipline by Another State Agency</b>		<b>0</b>
<b>Total</b>		<b>25</b>

The graph above shows the number of complaints received by complaint type for this quarter. When each complaint is logged into the database it is assigned a complaint type based upon the primary violation.

## INVESTIGATIONS\*

DCA Category	Initiated	Pending **	Closed
Unprofessional Conduct	11	59	10
Unlicensed/Unregistered	1	32	5
Criminal Charges/Convictions (includes pre-licensure)	4	18	11
Sexual Misconduct	1	10	4
Fraud	2	46	1
Non-jurisdictional	3	4	2
Incompetence/Negligence	3	37	0
Unsafe/Unsanitary Conditions	0	8	0
Other	2	2	0
Substance Abuse/Drug & Mental/Physical Impairment	0	0	0
Discipline by Another State Agency	1	2	0
<b>Total</b>	<b>28</b>	<b>218</b>	<b>33</b>

\* Includes both formal investigations by DCA category conducted by DOI and desk investigations conducted by staff.

\*\*These numbers include current and previous quarters and the DCA Category may change after the investigation is initiated to better categorize the complaint.



# Statistics Report

## Performance Measures (PM) 1 Volume Convictions/Arrests received

### Complaint Intake

	FY 2019/20	Fiscal Year 2020/21						
	YTD	Q1		Q2		Q3	Q4	YTD
		Jul	Sep	Oct	Dec	Jan - Mar	Apr - Jun	
PM1: Total Complaints Received	180	33		28		24		85
PM1: Total Convictions/Arrest Received	53	10		8		4		22
PM1: Total Received	233	43		36		28		107

\*Of the Convictions/Arrests, 0 were received on Applicants and 4 were received on Licensees.

## PM2 Cycle Time Intake - Average number of complaints intake during the specified time period.

### Intake

Target: 10 Days	FY 2019/20	Fiscal Year 2020/21						
	YTD	Q1		Q2		Q3	Q4	YTD
		Jul	Sep	Oct	Dec	Jan - Mar	Apr - Jun	
PM2: Intake/Avg. Days	4.3	5		5		4		4.7

**PM3 Cycle Time** - Average Number of Days to complete the entire enforcement process for complaints investigated and not transmitted to the AG for formal discipline. (Includes intake, investigation, and case outcome or non-AG formal discipline.)

### Investigations

Target: 200 Days	FY 2019/20	Fiscal Year 2020/21						
	YTD	Q1		Q2		Q3	Q4	YTD
		Jul	Sep	Oct	Dec	Jan - Mar	Apr - Jun	
PM3: All Investigations Closed	174	49		38		31		118
PM3: Average Cycle Time Investigations	189	233		248		423		301

The percent reflects how many investigation cases were closed in the respective time frames.

	FY 2019/20	Fiscal Year 2020/21						
	YTD	Q1		Q2		Q3	Q4	YTD
		Jul	Sep	Oct	Dec	Jan - Mar	Apr - Jun	
Up to 90 Days	45%	23		21		12		44%
91 - 180 Days	16%	8		0		2		8%
181 Days - 1 Year (364)	15%	5		6		5		13%
1 to 2 Years (365-730)	18%	9		10		9		22%
2 to 3 Years (731- 1092)	5%	6		4		0		8%
Over 3 Years (1093 +)	1%	0		1		5		5%

The average time frame reflects the length of time it took to process the citations that were closed within the respective quarter.

### Citations

	FY 2019/20	Fiscal Year 2020/21						
	YTD	Q1		Q2		Q3	Q4	YTD
		Jul	Sep	Oct	Dec	Jan - Mar	Apr - Jun	
Final Citations	33	9		6		2		17
Average Days to Close	240.5	385		532		1062		659.7

**PM4 Cycle Time-Discipline** Average number of days to close cases transmitted to the AG for formal disciplinary action. This includes formal discipline, and closures without formal discipline. (e.g. withdrawals, dismissals, etc.)

Transmittals to Attorney General (AG)								
Target: 540 Days	FY 2019/20	Fiscal Year 2020/21						
	YTD	Q1		Q2		Q3	Q4	YTD
		Jul	Sep	Oct	Dec	Jan - Mar	Apr - Jun	
PM4:Volume AG Cases	8	6		4		1		11
PM4: Total Cycle Time	512	702		920		1681		1101

	FY 2019/20	Fiscal Year 2020/21						
	YTD	Q1		Q2		Q3	Q4	YTD
		Jul	Sep	Oct	Dec	Jan - Mar	Apr - Jun	
AG Cases Initiated	16	4		2		2		8
AG Cases Pending	16	14		14		15		15
SOIs Filed	0	0		0		0		0
Accusations Filed	15	2		3		1		6
Total Closed after Transmission	8	6		4		0		10
Revoked	1	2		1		0		3
Voluntary Surrender	4	3		1		0		4
Probation	2	1		2		1		4
License Denied	0	0		0		0		0
Public Reprimand	1	0		0		0		0
Closed w/out Disciplinary Action	0	0		0		0		0

The percent represents how many cases already assigned for discipline were closed in the specified range.

Total Orders Aging/Final Decision								
	FY 2019/20	Fiscal Year 2020/21						
	YTD	Q1		Q2		Q3	Q4	YTD
		Jul	Sep	Oct	Dec	Jan - Mar	Apr - Jun	
Up to 90 Days	0%	0		0		0		0%
91 - 180 Days	13%	1		0		0		9%
181 Days - 1 Year (364)	13%	0		0		0		0%
1 to 2 Years (365-730)	38%	3		3		0		55%
2 to 3 Years (731- 1092)	13%	0		0		0		0%
Over 3 Years (1093 +)	25%	2		1		1		36%

Other Legal Actions								
	FY 2019/20	Fiscal Year 2020/21						
	YTD	Q1		Q2		Q3	Q4	YTD
		Jul	Sep	Oct	Dec	Jan - Mar	Apr - Jun	
PC 23 Ordered	1	1		0		0		1
Interim Suspension	0	0		0		0		0



**11 -  
Legislative  
Report**

**2021 TENTATIVE LEGISLATIVE CALENDAR**

COMPILED BY THE OFFICE OF THE ASSEMBLY CHIEF CLERK AND THE OFFICE OF THE SECRETARY OF THE SENATE  
Revised 12-18-20

**DEADLINES**

JANUARY							
	S	M	T	W	TH	F	S
						1	2
Wk. 1	3	4	5	6	7	8	9
Wk. 2	10	11	12	13	14	15	16
Wk. 3	17	18	19	20	21	22	23
Wk. 4	24	25	26	27	28	29	30
Wk. 1	31						

- Jan. 1** Statutes take effect (Art. IV, Sec. 8(c)).
- Jan. 10** Budget must be submitted by Governor (Art. IV, Sec. 12(a)).
- Jan. 11** Legislature reconvenes (J.R. 51(a)(1)).
- Jan. 18** Martin Luther King, Jr. Day.
- Jan. 22** Last day to submit **bill requests** to the Office of Legislative Counsel.

FEBRUARY							
	S	M	T	W	TH	F	S
Wk. 1		1	2	3	4	5	6
Wk. 2	7	8	9	10	11	12	13
Wk. 3	14	15	16	17	18	19	20
Wk. 4	21	22	23	24	25	26	27
Wk. 1	28						

- Feb. 15** Presidents' Day.
- Feb. 19** Last day for bills to be **introduced** (J.R. 61(a)(1), J.R. 54(a)).

MARCH							
	S	M	T	W	TH	F	S
Wk. 1		1	2	3	4	5	6
Wk. 2	7	8	9	10	11	12	13
Wk. 3	14	15	16	17	18	19	20
Wk. 4	21	22	23	24	25	26	27
Spring Recess	28	29	30	31			

- Mar. 25** **Spring Recess** begins upon adjournment (J.R. 51(a)(2)).
- Mar. 31** Cesar Chavez Day observed.

APRIL							
	S	M	T	W	TH	F	S
Spring Recess					1	2	3
Wk. 1	4	5	6	7	8	9	10
Wk. 2	11	12	13	14	15	16	17
Wk. 3	18	19	20	21	22	23	24
Wk. 4	25	26	27	28	29	30	

- Apr. 5** Legislature reconvenes from Spring Recess (J.R. 51(a)(2)).
- Apr. 30** Last day for **policy committees** to meet and report to fiscal committees **fiscal bills** introduced in their house (J.R. 61(a)(2)).

MAY							
	S	M	T	W	TH	F	S
Wk. 4							1
Wk. 1	2	3	4	5	6	7	8
Wk. 2	9	10	11	12	13	14	15
Wk. 3	16	17	18	19	20	21	22
Wk. 4	23	24	25	26	27	28	29
No Hrgs.	30	31					

- May 7** Last day for **policy committees** to meet and report to the floor **non-fiscal bills** introduced in their house (J.R. 61(a)(3)).
- May 14** Last day for **policy committees** to meet prior to June 7 (J.R. 61(a)(4)).
- May 21** Last day for **fiscal committees** to meet and report to the floor bills introduced in their house (J.R. 61(a)(5)).
- Last day for **fiscal committees** to meet prior to June 7 (J.R. 61(a)(6)).
- May 31** Memorial Day.

\*Holiday schedule subject to final approval by Rules Committee.

JUNE							
	S	M	T	W	TH	F	S
No Hrgs.			1	2	3	4	5
Wk. 1	6	7	8	9	10	11	12
Wk. 2	13	14	15	16	17	18	19
Wk. 3	20	21	22	23	24	25	26
Wk. 4	27	28	29	30			

**June 1-4** **Floor session only.** No committee may meet for any purpose except Rules Committee, bills referred pursuant to A.R. 77.2, and Conference Committees (J.R. 61(a)(7)).

**June 4** Last day for each house to pass bills introduced in that house (J.R. 61(a)(8)).

**June 7** Committee meetings may resume (J.R. 61(a)(9)).

**June 15** Budget Bill must be passed by midnight (Art. IV, Sec. 12(c)(3)).

JULY							
	S	M	T	W	TH	F	S
Wk. 4					1	2	3
Wk. 1	4	5	6	7	8	9	10
Wk. 2	11	12	13	14	15	16	17
Summer Recess	18	19	20	21	22	23	24
Summer Recess	25	26	27	28	29	30	31

**July 2** Independence Day observed.

**July 14** Last day for **policy committees** to meet and report bills (J.R. 61(a)(11)).

**July 16** **Summer Recess** begins upon adjournment, provided Budget Bill has been passed (J.R. 51(a)(3)).

AUGUST							
	S	M	T	W	TH	F	S
Summer Recess	1	2	3	4	5	6	7
Summer Recess	8	9	10	11	12	13	14
Wk. 3	15	16	17	18	19	20	21
Wk. 4	22	23	24	25	26	27	28
No. Hrgs.	29	30	31				

**Aug. 16** Legislature reconvenes from Summer Recess (J.R. 51(a)(3)).

**Aug. 27** Last day for **fiscal committees** to meet and report bills (J.R. 61(a)(12)).

**Aug. 30-Sept. 10** **Floor session only.** No committees may meet for any purpose, except Rules Committee, bills referred pursuant to A.R. 77.2, and Conference Committees (J.R. 61(a)(13)).

SEPTEMBER							
	S	M	T	W	TH	F	S
No Hrgs.				1	2	3	4
No Hrgs.	5	6	7	8	9	10	11
Interim Recess	12	13	14	15	16	17	18
Interim Recess	19	20	21	22	23	24	25
Interim Recess	26	27	28	29	30		

**Sept. 3** Last day to **amend** bills on the floor (J.R. 61(a)(14)).

**Sept. 6** Labor Day.

**Sept. 10** Last day for any bill to be passed (J.R. 61(a)(15)). **Interim Recess** begins upon adjournment (J.R. 51(a)(4)).

## IMPORTANT DATES OCCURRING DURING INTERIM RECESS

### **2021**

Oct. 10 Last day for Governor to sign or veto bills passed by the Legislature on or before Sept. 10 and in the Governor's possession after Sept. 10 (Art. IV, Sec. 10(b)(1)).

### **2022**

Jan. 1 Statutes take effect (Art. IV, Sec. 8(c)).

Jan. 3 Legislature reconvenes (J.R. 51(a)(4)).

\*Holiday schedule subject to final approval by Rules Committee.



# **Legislative Report**



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<b>DATE</b>	June 24 - 25, 2021
<b>TO</b>	Board Members, Acupuncture Board
<b>FROM</b>	Kristine Brothers, Policy Coordinator
<b>SUBJECT</b>	2020 - 2021 Pending CA Legislation of Interest as of May 28, 2021

### **Bills the Board Currently Has a Watch Position On**

#### **[Assembly Bill 2: Regulations: legislative review: regulatory reform - Fong](#)**

#### **Status: Introduced on 12/7/20, Not Amended Since Watch Position Taken**

AB 2 is located in the Assembly Committee on Accountability and Administrative Review. It was held under submission by the Assembly Committee on Appropriations.

#### **Existing Law:**

- The Administrative Procedure Act governs the procedure for the adoption, amendment, or repeal of regulations by state agencies and for the review of those regulatory actions by the Office of Administrative Law (OAL).
- Requires an agency, prior to submitting a proposal to adopt, amend, or repeal an administrative regulation, to determine the economic impact of that regulation.
- Defines a major regulation as a regulation, as specified, that will have an economic impact on California business enterprises and individuals in an amount exceeding \$50,000,000, as estimated by the agency.
- Requires OAL to transmit a copy of a regulation to the Secretary of State for filing if the office approves the regulation or fails to act on it within 30 days.
- Provides that a regulation or an order of repeal of a regulation becomes effective on a quarterly basis, except in specified instances.
- Requires OAL and a state agency proposing to adopt, amend, or repeal a regulation to review the proposed changes for, among other things, consistency with existing state regulations.

#### **Summary of Bill:**

This bill would require OAL to submit a copy of each major regulation it submits to the Secretary of State to each house of the Legislature for review. Regulations become effective on a quarterly basis based upon a regulation filing date. This bill would add an additional exception to those currently provided which specifies a regulation does not become effective in accordance with the quarterly dates if the Legislature enacts a statute to override the regulation.

On or before January 1, 2023, this bill would require each state agency to review its regulations, identify any regulations that are duplicative, overlapping, inconsistent, or out of date, revise the identified regulations, and report to the Legislature and Governor. The bill would repeal these provisions on January 1, 2024.

**Board Impact:**

This bill is intended to ensure laws are more efficiently implemented and enforced and to reduce unnecessary and outdated rules and regulations during this time the state's economy is slowly recovering. Staff regularly review its regulations and has identified regulations that are in need of revisions and repeals. The bill would create efficiencies with implementing such regulatory clean-up given the deadline proposed by the Legislature. However, there is great concern over the tight deadline of a year in which the Board would be required to promulgate a number of regulatory packages mandated by the proposed law. In order to meet the statutory deadline of January 1, 2023, the Board will have to put other regular rulemaking items aside to prioritize the regulations affected by AB 2.

Compliance with this law as proposed would add additional workload, requiring additional staff resources, Board meeting time, and take precedence over other Board business and currently pending regulatory packages.

**Fiscal Impact:**

Staff estimates that it would take a total of 40 hours of AGPA time to review all regulations within the Board's Act to research authority sections and policy to determine what is outdated, duplicative, or inconsistent. It is estimated there could be as much as six regulatory packages that would need to be addressed under the provisions of this bill which is estimated to be 180 hours (30 hours X 6 rulemaking packages) of AGPA time. Overall, this could amount to a total of 220 hours of AGPA time.

**Board Position:**

Watch

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**Assembly Bill 29: State Bodies – Cooper**

**Status: Introduced on 12/7/2020, Not Amended Since Watch Position Taken**

**Existing Law:**

- Requires that all meetings of a state body, as defined, be open and public, and that all persons be permitted to attend any meeting of a state body, except as otherwise provided in that act.
- Requires the state body to provide notice of its meeting, including specified information and a specific agenda of the meeting, as provided, to any person who requests that notice in writing and to make that notice available on the internet at least 10 days in advance of the meeting.

**Summary of Bill:**

The bill would require that a state body providing written notice to someone who requests it must include in that notice all writings or materials provided for the meeting to a member of the state body.

These writings or materials must be made available on the state body's website and to anyone who requests them on the same day that they are provided to members of the body or at least 72 hours in advance, whichever is earlier.

If the state body does not comply with the above provisions, it cannot discuss those materials or act on an item pertaining to these materials at a meeting of that body.

**Board Impact:**



Current Board staff practice is, materials are posted between 10 days and 72 hours prior to the meeting. However, there can be exceptions with materials (especially public comments) that come in close enough to the meeting to make posting them online in a timely fashion difficult.

**Fiscal Impact:**

The fiscal impact of this bill would be, occasionally add to staff burden in producing meeting material in compliance with posting deadlines. Staff estimates an increase in workload of 4-6 hours of AGPA time annually. Since these are last minute requests, it may require the Board to issue overtime to staff to accommodate such requests. The Board defers to OIS for their IT impact related to AB 29.

**Board Position:**

Watch

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**[Assembly Bill 54](#): COVID-19 emergency order violation: license revocation - Kiley**

**Status: Amended on 4/5/21**

The bill no longer effects the Board due to amendments on 4/5/21 that excluded healing arts boards and licensees. AB 54 failed to be passed out of Assembly Committee on Business and Professions.

**Existing Law:**

- Provides for the licensure and regulation of various professions and vocations by boards within the Department of Consumer Affairs and provides for the denial, suspension, and revocation of licenses for specified conduct.
- The Alcoholic Beverage Control Act, which is administered by the Department of Alcoholic Beverage Control, regulates the application, issuance, and suspension of alcoholic beverage licenses. The act provides the grounds upon which the department may suspend or revoke licenses.

**Summary of Bill:**

This bill previously prohibited DCA, a board within DCA, and the Department of Alcoholic Beverage Control (ABC) from revoking a license for failure to comply with any COVID-19 emergency orders unless the board or department can prove that lack of compliance resulted in transmission of COVID-19.

This bill previously declared that it is to take effect immediately as an urgency statute.

The amendments kept the same provisions but excluded healing arts boards.

**Board Impact:**

No impact.

**Fiscal Impact:**

No impact.

**Staff Recommendation:**

No action necessary.

**Board Position:**

Watch

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**Assembly Bill 107: Licensure: veterans and military spouses - Salas**

**Status: Amended on 4/20/21**

With Assembly, in floor process.

**Existing Law:**

- Requires an applicant seeking a license from a board within the department (DCA) to meet specified requirements and to pay certain licensing fees.
- Requires a board within DCA to issue, after appropriate investigation, certain types of temporary licenses to an applicant if the applicant meets specified requirements, including the applicant is married to, or in a domestic partnership or other legal union with, an active duty member of the Armed Forces of the United States who is assigned to a duty station in this and the applicant submits an application attesting to the fact that the applicant meets all of the requirements for a temporary license.
- Authorizes a board to adopt regulations necessary to administer these provisions.
- Provides that these temporary licenses shall expire 12 months after issuance, upon issuance of an expedited license, or upon denial of the application for expedited licensure by the board, whichever occurs first.

**Summary of Bill:**

The provisions of this bill would require all licensing boards under DCA to issue temporary licenses to applicants within 30 days who provide sufficient evidence that they are married to, or in a domestic partnership or other legal union with, an active duty member of the Armed Forces of the United States who is assigned to a duty station in California and are not grounds for denial based on the results of a criminal background check. This bill would provide that these temporary licenses shall expire 12 months after issuance, upon issuance of a standard license, upon issuance of a license by endorsement, or upon issuance of an expedited license, whichever occurs first. The bill would exempt a board from the bill's provisions that already has a process in place by which an out-of-state licensed applicant in good standing who is married to, or in a domestic partnership or other legal union with, an active duty member of the Armed Forces of the United States is able to receive expedited, temporary authorization to practice while meeting state-specific requirements for a period of at least one year or is able to receive an expedited license by endorsement with no additional requirements superseding those for a temporary license.

The bill would require, if necessary, a board to submit to DCA for approval draft regulations necessary to administer the provisions of the bill by June 15, 2022. AB 107 would require DCA to prepare an annual report to the Legislature containing specified information relating to the professional licensure of veterans, service members, and their spouses.

**Board Impact:**

After amendments were made on March 24<sup>th</sup>, the temporary license provisions in AB 107 now apply to the Board. This is a new area of licensure for the Board. Staff would need to establish procedures for temporary licenses, adapt existing computer systems, and obtain Board approval. The Board does not currently accept reciprocity with other states to grant an acupuncture license. Staff would need to develop procedures for processing licenses based on reciprocity.

There is an additional concern with the establishment of reciprocity. The California Acupuncture Licensing Exam (CALE), which is currently required of all applicants for licensure, addresses in part topics of practices, laws, and regulations specific to California. A recipient of a temporary license would likely have a gap in their understanding of the practice of acupuncture in California, unless they have previously taken the CALE. Providing a temporary license to practice acupuncture to applicants eligible for this pathway does not address the gap in knowledge as these applicants will not meet the Board's curriculum requirements. This poses a potential risk to public safety. This also creates a double standard that the legislature may not have intended by relaxing the Board's requirements for these individuals alone while requiring that all other applicants meet the 3,000-hour curriculum requirement.

It is difficult to be certain how many applicants might apply under these new provisions. There has been interest from acupuncturists outside of California to have license reciprocity with California, which this bill would grant to the spouse or partner of a member of the military. Though the number is likely small, probably no more than 10. For context, the Board received two applications for licensure in 2018-19 and two applications for licensure in 2019-20 under Business and Professions Code section 115.5, which is the law that requires boards to expedite licensure for partners of an active duty member of the military. With AB 107 affecting the same population of applicants, it is expected that the pool of applicants who may seek temporary licensure under AB 107 will be approximately the same volume.

Given the knowledge gap for temporary licensees described above, it is reasonable to anticipate some increased need for Enforcement to address potential consumer complaints and/or violations by temporary licensees not familiar with California acupuncture laws and regulations.

**Fiscal Impact:**

Additional staff time would be required to develop a process for issuing temporary licenses, update regulations, adapt existing computer systems, and obtain Board approval. Staff would also need to establish guidelines for enforcement of AB 107 provisions. It is estimated this will take at least 15 hours for 1 OT, 15 hours for 1 SSA, 90 hours for 1 AGPA , and 7 hours total for each Board Member at a public meeting.

The slight increase in licenses based upon these very specific conditions would result in a minor increase in revenue. However, since given the business process workload and upfront IT costs needed to set up a new license category/status, the additional revenue may not offset those costs.

With the relatively small number of additional licensees expected under the provisions of AB 107 and the estimated gap in California laws and regulations, there may be one additional complaint and/or investigation each year. On average that would require 13 hours of an Enforcement Analyst, 40 hours of Department of Investigations staff to handle the complaint and any necessary investigation, and additional Attorney General costs if the case were to go for formal discipline.

Section 2 of the bill would add data reporting requirements. The Board would need roughly one hour of SSA time to gather the necessary information from the licensing database.

Staff estimates there would be an impact to information technology related to AB 107 given the requirement to develop the IT infrastructure to process and issue a temporary license in the Board's licensing database.

**Board Position:**

Watch

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**[Assembly Bill 646](#): Department of Consumer Affairs: boards: expunged convictions - Low**

**Status: Amended on 4/14/21**

This bill was passed out of Assembly Committee on Business and Professions and re-referred to the Assembly Committee on Appropriations. This is a two-year bill.

**Existing Law:**

- Establishes the Department of Consumer Affairs, which is composed of various boards, and authorizes a board to suspend or revoke a license on the ground that the licensee has been convicted of a crime substantially related to the qualifications, functions, or duties of the business or profession for which the license was issued.
- The Medical Practice Act, provides for the licensure and regulation of the practice of medicine by the Medical Board of California and requires the board to post certain historical information on current and former licensees, including felony and certain misdemeanor convictions.
- Requires the Medical Board of California, upon receipt of a certified copy of an expungement order from a current or former licensee, to post notification of the expungement order and the date thereof on its internet website.

**Summary of Bill:**

This bill is almost identical to AB 1616 from the 2019-2020 Legislative session which the Board reviewed last year and took a watch position at that time.

AB 646 would require programs under the Department of Consumer Affairs that post information on its website about a revoked license due to a criminal conviction to post notification of an expungement within 90 days of the board receiving an expungement order related to the conviction for those who reapply for licensure or are relicensed. Additionally, the bill would require boards, on receiving an expungement order, to remove the initial posting on its website that the person's license was revoked and information regarding arrests, charges, and convictions if the person is not currently licensed and does not reapply for licensure. The person seeking the change in either case must pay to the board a fee not to exceed the cost of administering the bill's provisions.

**Board Impact:**

This bill is designed to reduce employment barriers for people with previous criminal records who have been rehabilitated and whose conviction has been dismissed, or expunged, through the judicial process.

There is already a process in place for licensees to establish they are rehabilitated through a petition for reinstatement of a revoked license with the Board. It is through this process the Board can separately make a determination if a licensee is rehabilitated since the court system may have different criteria than the Board. The licensee's expungement is taken into consideration at this time and the Board's disciplinary action, which is separate from the court's action, can be reconsidered. However, there is no process in place where the licensee's disciplinary documents are removed or expungement posted on the Board's website. Although the revocation imposed by the Board resulted from a conviction, it is a distinct action on the license unrelated to the licensee's criminal record.

The purpose of having a licensee's disciplinary history details on the Board's website is to allow the consumer to see the nature of the violation so they can make an informed decision when

choosing their provider. Under the provisions of this bill, the disciplinary documents are removed when a person is not seeking re-licensure or is not currently licensed. However, this person may possess a license in another state or another profession within the state. In this case, a consumer will not have access to this person's complete licensure history to make an informed decision. Based upon this, staff has concern regarding public protection with this specific provision of the bill. If the only mandate was to have each board post the expungement notification in addition to the licensee's disciplinary documents, then public protection via full disclosure is still achieved.

**Fiscal Impact:**

The Board may see some minor increases in revenue if this bill passes as individuals seek expungement and apply for the removal of disciplinary documents or posting of the expungement. At this time, it is unquantifiable how many current revoked licensees would apply for expungement. Based upon annual petitions for reinstatement received, the Board may receive around four (4) requests a year. Additionally, the board would need to establish a fee amount to offset the increase in licensing and enforcement workload.

The web posting and removal of documents would fall under the Board's regular pro rata towards DCA - Office of Information Services – services. There will likely be additional time (approximately four hours per request) by Enforcement staff spent reviewing the expungement order and verifying the authenticity of the court documents. This would include costs to obtain certified records, which can vary in amount by jurisdiction.

Staff would need to develop a form within regulation for purposes of the applicant submitting the expungement record and prescribed fee to the Board in a standardized manner. This would add to the Board's rulemaking workload.

**Board Position:**

Watch

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**[Assembly Bill 885](#): Bagley-Keene Open Meeting Act: teleconferencing - Quirk**

**Status: Amended on 3/24/21**

With the Assembly Committee on Governmental Operations.

**Existing Law:**

- The Bagley-Keene Open Meeting Act requires, with specified exceptions, that all meetings of a state body be open and public, and all persons be permitted to attend any meeting of a state body, except as provided.
- Requires a state body that elects to conduct a meeting or proceeding by teleconference to make the portion of the meeting that is required to be open to the public audible to the public at the location specified in the notice of the meeting.
- Requires a state body that elects to conduct a meeting or proceeding by teleconference to post agendas at all teleconference locations, identify each teleconference location in the notice and agenda of the meeting or proceeding, and requires each teleconference location to be accessible to the public.
- Authorizes any meeting of a state body that is an advisory board, advisory commission, advisory committee, advisory subcommittee, or similar multimember advisory body to hold an open meeting by teleconference if the meeting complies with the requirements of the act, except as provided.

- Requires that when a member of a multimember state advisory body participates remotely the body provide a means by which the public may remotely hear audio of the meeting or remotely observe the meeting.
- Requires a multimember state advisory body to end or adjourn a meeting if it discovers that a required means of remote access has failed during the meeting, and, if the meeting is to adjourn and reconvene on the same day, that law requires the body to communicate, among other things, how a member of the public may hear audio of the meeting or observe the meeting.

**Summary of Bill:**

This bill would require a state body that conducts a meeting or proceeding by teleconference to make the portion that is required to be open to the public both audibly and visually observable. The bill would require a state body that elects to conduct a meeting or proceeding by teleconference to post an agenda at the designated primary physical meeting location in the notice of the meeting where members of the public may physically attend the meeting and participate. This bill would extend the above requirements of meetings of multimember advisory bodies that are held by teleconference to meetings of all multimember state bodies.

The bill would further require any body that is to adjourn and reconvene a meeting on the same day to communicate how a member of the public may both audibly and visually observe the meeting.

**Board Impact:**

The intention of this bill is to provide additional means other than just audio when meetings are conducted remotely. Given the wide use of platforms like WebEx, Zoom, and Microsoft Teams that have cameras and other visual aids via screen sharing, holding open meetings where the public can observe audibly and visually should not be a problem. Furthermore, the Board has been holding all its public meetings via teleconference through WebEx since June 2020. Providing more access to the public for participation and observation of the Board conducting business is the goal of expanding the platform of the meetings. The only impacts of this bill are related to fiscals.

**Fiscal Impact:**

The fiscal impact of AB 885 on the Acupuncture Board is expected to be in the areas of equipment and training expenses for the Board members. Expenses related to meeting notices and additional bandwidth are expected to be covered within already existing meeting expenditures.

AB 885 would require Board members who participate remotely to be both audibly and visually observable. For Board members to be visually observable, staff will need to provide them with computing devices with necessary software licenses and cameras so that members can be observed while participating remotely. Staff anticipates spending \$17,500 for this equipment (\$2,500 per device for 7 Board members). The members would need to be trained in DCA and State of California information security practices. This would be a total of 14 hours of Board member time (2 hours per Board member) plus expenses. The average expenses would be \$500 airfare, \$30 airport parking, \$50 round trip ground transportation, \$41 meals, and \$100 per diem for a total of \$721 per member, or \$5,047 for the seven Board members.

**Board Position:**

Watch

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## **Assembly Bill 1236: Healing arts: licensees: data collection - Ting**

**Status: Amended on 4/29/21**

With Assembly in floor process.

### **Existing Law:**

- Requires the Board of Registered Nursing, the Physician Assistant Board, the Respiratory Care Board of California, and the Board of Vocational Nursing and Psychiatric Technicians of the State of California to regulate and oversee the practice of healing arts within their respective jurisdictions and to, among other things, collect and report specific demographic data relating to their licensees, subject to a licensee's discretion to report their race or ethnicity, to the Office of Statewide Health Planning and Development.
- Requires these boards to collect this data at least biennially, at the times of both issuing an initial license and issuing a renewal license.
- Authorizes the Board of Registered Nursing to expend \$145,000 to implement these provisions.

### **Summary of Bill:**

This bill would repeal the existing provisions requiring boards to collect and report specific demographic information and would, instead, require all boards that oversee healing arts licensees to collect at the time of electronic application for a license and license renewal, or at least biennially, specified demographic information and to post the information on the websites that they each maintain.

Effective July 1, 2022, this bill would require each board, or the DCA on its behalf, to provide the information annually in aggregate form to the Office of Statewide Health Planning and Development.

### **Board Impact:**

The Board currently does not collect workforce data as specified in the proposed provisions of the bill. However, at the time of initial licensure and biennial renewal, applicants and licensees are required to register their place of practice address for the issuance of a wall license, which does include the licensee's city, county, and zip code of practice as required by the bill. In addition, the demographic information to be collected include workforce data, gender or gender identity, race or ethnicity, educational background, disability status, and job satisfaction. Having this kind of demographic information for each profession may, overtime, highlight trends and provide more of an understanding of each unique licensee population.

The Board uses Connect and CAS as its database systems, so both programs would need to be updated with capturing the demographic data as part of the license record. The online interface for Connect for initial license and renewal applications will require IT developers to add the demographic questions. At this time, the IT impacts of AB 1236 are undetermined.

### **Fiscal Impact:**

Staff estimates that either an SSA or AGPA from existing staff will need to create a query of the Board's database systems to report the demographic data biennially. It's estimated this will take approximately four (4) hours for the initial creation of the query. Thereafter, running the report, formatting/validating the data, and submitting data to the Internet Team for posting biennially will take approximately four (4) hours of SSA or AGPA staff time. The costs associated with posting the data on the Board's website is covered in the Board's pro rata costs.

Starting July 1, 2022, Board staff at an AGPA level will need to run the report, format/validate data, and prepare a report of the workforce data for submission to the Office of Statewide Health Planning and Development, which is estimated to take approximately five (5) hours annually. While the expectation is that applicants and licensees will use the Board's new online application and renewal service, CONNECT, additional time may be required if staff have to review paper applications wherein this information would be collected and logged manually.

Staff also estimates that regulations will need to be passed to incorporate the collection of the demographic information through the Board's initial license application and renewal application. The required regulations amounts to approximately 30 hours of AGPA time.

**Board Position:**

Watch

**Bills the Board Currently Has an Oppose Position On**

**[Assembly Bill 339](#): Local government: open and public meetings - Lee**

**Status: Amended on 5/4/21**

The bill no longer effects the Board due to amendments on 4/15/21 that removed bill amendments related to the Bagley-Keene Open Meeting Act. Instead, the bill only effects local government open and public meetings. The bill is in Assembly floor process.

**Existing Law:**

- The Bagley-Keene Open Meeting Act, requires, with specified exceptions, that all meetings of a state body be open and public and all persons be permitted to attend any meeting of a state body.
- Requires at least one member of the state body to be physically present at the location specified in the notice of the meeting.
- The Dymally-Alatorre Bilingual Services Act, requires any materials explaining services available to the public to be translated into any non-English language spoken by a substantial number of the public, as defined, served by the agency, and requires every state and local agency serving a substantial number of non-English-speaking people, as defined, to employ a sufficient number of qualified bilingual persons in public contact positions or as interpreters to ensure provision of information and services in the language of the non-English-speaking person.

**Summary of Bill:**

This bill previously required all meetings, including a virtual congregation using teleconference technology, to include an opportunity for all persons to attend via a call-in option or an internet-based service option. It also required state bodies provide closed captioning services.

This bill previously required instructions on how to attend the meeting via call-in or internet-based service to be posted online along with the meeting agenda in an easily accessible location at least 72 hours before all regular meetings and at least 24 hours before all special meetings.

This bill previously required all meetings to provide the public with an opportunity to address the legislative body remotely via call-in or internet-based service and would require those persons



commenting in a language other than English to have double the amount of time as those giving a comment in English, if time restrictions on public comment are utilized, except when simultaneous translation are available. Previous provisions of the bill also required translation services be provided for all languages of which 5 percent of the population of the state body's jurisdiction speaks.

This bill previously required legislative bodies of local agencies, and state bodies to translate agendas and instructions for accessing the meeting to be translated into all languages for which 5 percent of the population in the area governed by the local agency, or state body's jurisdiction, are speakers.

Now the bill only makes changes to law related to local government.

**Board Impact:**

No impact.

**Fiscal Impact:**

No impact

**Staff Recommendation:**

No position. No Board vote is necessary based upon the Legislature's understanding the bill no longer effects the Board.

**Board Position (prior to bill amendment):**

Oppose

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**[Assembly Bill 918](#): Acupuncture: licensure: examination - Quirk-Silva**

**Status: Introduced 2/17/21, Not Amended**

Located in the Assembly Committee on Business and Professions. This is a two-year bill.

**Existing Law:**

- Requires an applicant for a license to pass a written examination that tests the applicant's ability, competence, and knowledge in the practice of acupuncture.
- Requires the examination to be administered by the board and developed by the Office of Professional Examination Services of the Department of Consumer Affairs.

**Summary of Bill:**

This bill would require applicants to obtain a passing score on one or more examinations administered by the National Certification Commission for Acupuncture and Oriental Medicine, as determined by the board based on the skills, standards, and knowledge required for licensure pursuant to the act.

**Board Impact:**

The Board's mandate is to protect the public. The California Acupuncture Licensing Exam (CALE) is one of the final safeguards before licensure that the Board has in place to protect the public by ensuring applicants meet entry level competencies to be licensed as an acupuncturist. The Board ensures that the examination addresses this charge by conducting an Occupational Analysis (OA) of the California acupuncture profession every five years. To change the licensing examination used by the Board will require that this safeguard is in place by reviewing the content of any examination it is seeking to use and comparing it to the CALE.

This process requires the Board to conduct third-party audits of the examination that is being considered. For an informed and accountable decision to be made, an accurate comparison requires that the most recent OA be used for comparison. The Board has started its 2020 OA and anticipates its completion by the summer of 2021. The NCCAOM also conducts its own occupational analysis known as the Job Analysis Survey (JAS). Historically, the JAS was conducted every seven to ten (7 – 10) years. More recently, the NCCAOM has moved to conduct its JAS every five to seven (5 – 7) years with the next JAS set to begin in 2022 and expected to be completed by 2023. Once NCCAOM's JSA is completed, the Board will be able to have a third-party audit of the most current information. It is critical that the Board conduct its audit on the most recent OAs/JSAs to ensure an informed decision is made. The Board's last third-party audit was conducted in 2016.

The 2016 audit, identified the following findings:

1. The NCCAOM examinations are congruent with assessing many of the general areas of entry-level California acupuncture practice, e.g., acupuncture treatment, herbal therapy, diagnostic impressions, etc.
2. The NCCAOM examinations do not assess 100% of the general areas of entry-level California acupuncture practice identified in the 2015 Acupuncture OA, which are part of the CA Acupuncture test plan.
3. The NCCAOM examinations do not assess California-specific areas of entry-level acupuncture practice, including content related to the laws, regulations, and practice requirements specific to California.

Additionally, the audit raised concern that only a small sample of the NCCAOM test questions were provided to the auditing team and thus was not an accurate representation of the complete exam. This affirms the Board's need to conduct a new third-party audit of the most recent OA/JAS's. This audit will need to await the completion of the 2022/23 JAS.

The Board's licensed stakeholders are divided on the issue, receiving strong positions on both sides at both the 2016 and 2018 Sunset Hearings, as well as the 2016 Board meetings where the audit findings were discussed.

AB 918, as introduced, does not have an implementation date identified in the bill, as such, this requirement would go into effect on January 1, 2022. This language also does not account for requirement to develop a California supplemental examination to address the areas identified in the 2016 audit findings that do not cover the content that the CALE does, including CA laws and regulations, and California specific scope and practices.

A third-party audit of the most current OA and the JAS will be required for the Board to make an informed decision, which will not be possible until 2024. If a decision is made at that time, an implementation timeline would also need to be accounted for.

**Fiscal Impact:**

Board staff estimates an increase in complaints related to the insufficient testing of entry level competencies, specifically California laws, regulations, practice, and standards, of the incoming applicants for licensure starting in 2022 with the effective date of this legislation if passed. From Board's staff estimation, this could result in at least a 5% increase in complaints received.

Currently, the ratio of consumer complaints to the California acupuncture licensee population is approximately .015%. If AB 918 brings in more complaints at a 5% increase, this could also result in an approximate 48% increase in discipline by the close of 2023. This is based upon the

assertion that the lack of quality in testing specific to California laws will directly increase complaints.

With additional complaints, the workload of the Board's enforcement staff will increase. A 5% increase in complaints will result in an additional 130 hours of AGPA time at the complaint/investigation phase and 400 hours of Divisions of Investigation (DOI) time annually. DOI's hourly rate changes year to year, but based upon an average hourly rate of \$277, the annual total DOI costs would increase by \$110,800.

There would be additional AGPA hours for cases that go on for formal discipline as well. A 48% increase in discipline would result in 30 additional hours of AGPA time. In addition, the majority of discipline cases result in probation, also increasing AGPA time spent on these cases over a course of two to five years. Annually, this would increase AGPA time by approximately 120 hours. In total, with all additional AGPA time accounted for due to the changes of AB 918, could result in an increase of 280 hours annually.

With additional cases being sent to the Office of the Attorney General (AG) for discipline, the Board could see an increase in AG costs of approximately \$65,000 annually. Some of these cases require subject matter expert (SME) reviews. These SME costs could increase by \$4,500 as a result of AB 918 passing.

**Board Position:**

Oppose

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**[Assembly Bill 1386](#): License fees: military partners and spouses - Cunningham**

**Status: Amended on 4/28/21**

Held under suspense on 5/20/21 by Assembly Committee on Appropriations.

**Existing Law:**

- Requires a board to expedite the licensure process for an applicant who holds a current license in another jurisdiction in the same profession or vocation and provides evidence that they are married to or in a domestic partnership or other legal union with an active duty member of the Armed Forces of the United States who is assigned to a duty station in this state under official active duty military orders.

**Summary of Bill:**

This bill would prohibit a board from charging an initial application fee or an initial license issuance fee to an applicant who meets these expedited licensing requirements. This bill would also prohibit a board from charging an initial examination fee to an applicant who meets the expedited licensing requirements if the examination is administered by the board.

**Board Impact:**

This bill is similar to AB 107 in its approach to providing more ease and convenience for military families when relocations occur for the retainment of one's career. The Board receives very few license applications from the military community, military spouses specifically. Last year (2020) the Board received two (2) applications. The previous year (2019) the Board received one (1) application. Although the impact to the Board is not estimated to be significant, this kind of legislation may set a precedence for other communities to seek being pardoned from licensing fees. The Board is special funded by its licensing fees so the preservation of its licensing fees is necessary to support and sustain the functions of the Board.

**Fiscal Impact:**

Based upon the Board's history of low applicants affected by this bill, the Board expects a revenue loss of approximately \$4,900 annually if the provisions of AB 1386 are enacted into law.

The Board uses Connect and CAS as its database systems, so both programs would need to be updated to record when an applicant qualifies for an initial fee waiver under Business and Professions Code (BPC) 115.5. This will allow for easy statistical reporting on this in the future. The exact IT impact related to AB 1386 is undetermined at this time.

Staff also estimates that regulations will need to be passed to incorporate the information and instructions related to the waiver of initial license fees for military spouses through the Board's initial license application.

**Board Position:**

Oppose

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**Senate Bill 772: Professions and vocations: citations: minor violations - Ochoa Bogh****Status: Introduced on 2/19/21, Not Amended**

Second hearing set for 4/19/21 canceled at the request of author. Currently located in the Senate Committee on Business, Professions and Economic Development. This is a two-year bill.

**Existing Law:**

- Authorizes the State Board of Chiropractic Examiners, the Osteopathic Medical Board of California, and any board within the Department of Consumer Affairs to issue a citation to a licensee, which may contain an order of abatement or an order to pay an administrative fine assessed by the board.

**Summary of Bill:**

This bill would prohibit the assessment of an administrative fine for a minor violation, and would specify that a violation shall be considered minor if it meets specified conditions, including that the violation did not pose a serious health or safety threat and there is no evidence that the violation was willful.

**Board Impact:**

The Board has citation and fine authority that is already used to address more minor violations as a means of education to the licensee and bring them into compliance with the law.

The Board already takes a progressive approach with addressing licensee violations. The Board does not have authority to issue notices of violations and require action to correct violations, therefore, letters of education are issued as the first step in addressing minor violations that are first offenses and are not done with a willful disregard for the law. The next step would be to issue a citation and fine, especially if there are actions required by the licensee to correct their violation(s). Finally, repeat minor offenses are addressed through formal disciplinary action.

The majority of the causes for citations and fines meet the proposed criteria for a minor violation set by the bill. The purpose of a fine is to make the licensee more accountable in complying with any possible orders of abatement through the citation. Without the authority to fine for minor violations, there won't be as much incentive for the licensee to comply.

California Code of Regulations section 1399.464 already identifies types of violations that shall be excluded from the issuance of a citation to address.

The Board does not systematically provide 30 days to address a violation through its citation and dismiss fines if complied. Each case warrants its own number of days to correct violations. In addition, the Board may dismiss a fine or reduce a fine if the licensee complies, however, this is dealt with on a case-by-case basis depending on the mitigating evidence provided by the licensee when contesting a citation. If the provisions of SB 772 go into law, the Board's flexibility and discretion in addressing violations based on the merits of the case through citation and fine are removed.

**Fiscal Impact:**

Removing the Board's fine authority for minor violations of its laws and regulations would create a loss in revenue.

Over the last three fiscal years (2017-18 – 2019-20), there were an average of 41 violations per year, with an average of \$27,010 in total fines for citations per year. The majority of these cases would qualify as minor violations under SB 772. However, after deducting the cases that would not meet the bill's minor violation criteria (probation violations and unlicensed practice) equal to approximately four (4) cases, the overall potential loss in revenue is approximately \$9,033 in fines annually.

SB 772 requires time from enforcement staff to identify minor violations. Staff time would also be required to monitor for correction of the minor violations and systematically dismiss fines of those cases in which the licensee complied within 30 days. It is estimated that it would take one hour of Enforcement Analyst (AGPA) time during the deliberation process at the completion of an investigation to determine whether the case falls under SB 772. For cases that are minor violations, the analyst would need one hour for each case to determine if it was corrected. That is a total of 74 hours (37 average citations per year) of AGPA time.

This increase in hours would be time in addition to the required analysis of enforcement staff since the same work is still required in writing up and issuing citations based upon the Board not having authority to issue notices of violation. Based upon the Board's citation data, on average 70 percent of the cited individuals comply with their order of abatement and correct the violation. Assuming 70 percent of the 37 minor violations are corrected on average, there would be 26 cases requiring additional AGPA time for making that determination and dismissing the fine and/or citation altogether.

It is estimated that Section 1399.464 of the California Code of Regulations would need to be amended to comply with SB 772. That would take approximately 30 hours of AGPA time in addition to time and resources during a full Board meeting to approve the regulations, then go through the regulatory process.

**Board Position:**

Oppose

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**Bills for Board Consideration**

**[Assembly Bill 810](#): Healing arts: reports: claims against licensees - Flora**

**Status: Introduced on 2/16/21, Not Amended**

With Assembly Committee on Business and Professions.

**Existing Law:**

- Makes failure of a licensee of 18 healing arts boards, including the Acupuncture Board, a claimant, or their counsel to report a settlement, judgment, or arbitration award over \$3,000 of a claim or action for damages for death or personal injury caused by negligence, error or omission in practice, or by the unauthorized rendering of professional services, by a person who holds a license, certificate, or other similar authority from one of those boards, who does not possess professional liability insurance as to the claim, within 30 days to the agency that issued the license, certificate, or similar authority, punishable by a fine of not less than \$50 or more than \$500, as specified.
- Makes failure of a marriage and family therapist, clinical social worker, professional clinical counselor, a claimant, or their counsel to report a settlement, judgment, or arbitration award over \$10,000 of a claim or action for damages for death or personal injury caused by negligence, error or omission in practice, or by the unauthorized rendering of professional services, by a marriage and family therapist, a clinical social worker, or a professional clinical counselor who does not possess professional liability insurance as to that claim, within 30 days to the agency that issued the license, certificate, or similar authority, punishable by a fine of not less than \$50 nor more than \$500, as specified.

**Summary of Bill:**

The relevant portion of the bill affecting the Board raises the minimum fine from \$50 to \$100 for the failure of a licensee, claimant, or their counsel to report a settlement, judgment, or arbitration award over \$3,000 of a claim or action for damages for death or personal injury caused by negligence, error or omission in practice, or by the unauthorized rendering of professional services, within 30 days to the Board.

**Board Impact:**

The Board regularly receives reports of settlements, judgments, and arbitration awards over \$3,000 of malpractice claims for licensees who possess professional liability insurance under BPC section 801. These reports either come directly from the insurance companies or from the National Practitioner Data Bank. Therefore, there are fail-safes in place to obtain such reports. However, BPC Section 802 requires self-reporting from a licensee, claimant, or the claimant's counsel when a practitioner is not insured. The Board has rarely received such kinds of reports in the past. There is no other resource for the Board to rely upon that such information is sufficiently reported to the Board. Raising the minimum fine may provide some additional incentive to comply with the provisions of BPC section 802. This bill can be looked at as providing more public protection.

**Fiscal Impact:**

Other sections of law within the same article identify that the failure to report is a public offense which would not authorize the Board to fine such parties for the violation, other than a licensee.

Violation of BPC section 802 would be considered unprofessional conduct by the licensee and permits the Board to take disciplinary action or issue a citation and fine. Since the fine assessment is set in law, it would be looked to as an authorizing statute setting the Board's authority to issue a fine at a minimum of \$100 for unprofessional conduct for the failure to report qualifying items. By AB 810 increasing the minimum fine from \$50 to \$100, the Board could recover slightly more in enforcement costs or receive more revenue through the issuance of citations and fines. The actual increase in revenue cannot be determined since there is no data demonstrating that the Board has had a case involving a violation of BPC section 802 in the past.

**Staff Recommendation:**

Support

**Recommended Motion Language:**

I motion that the Acupuncture Board take a [support] position on AB 810 (Flora), as introduced on 2/16/21, for the reasons discussed by members and staff and as reflected in the staff memo.

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**[Assembly Bill 1026](#): Business licenses: veterans - Smith****Status: Introduced on 2/18/21, Not Amended**

Held under submission by the Assembly Committee on Appropriations.

**Existing Law:**

- Requires an applicant seeking a license from a board to meet specified requirements and to pay certain licensing fees.
- requires a board to expedite, and authorizes a board to assist, in the initial licensure process for an applicant who supplies satisfactory evidence to the board that the applicant has served as an active duty member of the Armed Forces of the United States and was honorably discharged.
- Authorizes a board to adopt regulations necessary to administer those provisions.

**Summary of Bill:**

This bill would require the DCA and any board within the department to grant a 50% fee reduction for an initial license to an applicant who provides satisfactory evidence, as defined, the applicant has served as an active duty member of the United States Armed Forces or the California National Guard and was honorably discharged. This bill would authorize a board to adopt regulations necessary to administer these provisions.

**Board Impact:**

This bill is similar to AB 1386 in its approach to providing more ease and convenience for military families when relocations occur for the retainment of one's career. The Board receives very few license applications from the military community, military spouses specifically. Last year (2020) the Board received two (2) applications. The previous year (2019) the Board received one (1) application. Although the impact to the Board is not estimated to be significant, this kind of legislation may set a precedence for other communities to seek reduction in licensing fees. The Board is special funded by its licensing fees so the preservation of its licensing fees is necessary to support and sustain the functions of the Board.

**Fiscal Impact:**

Based upon the Board's history of low applicants affected by this bill, the Board expects a revenue loss of approximately \$2,450 annually if the provisions of AB 1026 are enacted into law.

The Board uses Connect and CAS as its database systems, so both programs would need to be updated to record when an applicant qualifies for an initial fee reduction under Business and Professions Code (BPC) 115.4. This will allow for easy statistical reporting on this in the future. The exact IT impact related to AB 1026 is undetermined at this time.

Staff also estimates that regulations will need to be passed to incorporate the information and instructions related to the reduction of initial license fees for military spouses through the Board's initial license application.

**Staff Recommendation:**

Watch

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**[Assembly Bill 1273](#): Interagency Advisory Committee on Apprenticeship: the Director of Consumer Affairs and the State Public Health Officer - Rodriguez****Status: Amended on 3/22/21**

Referred to Senate Committees on Labor, Public Employment and Retirement and Health.

**Existing Law:**

- Provides for apprenticeship programs within the Division of Apprenticeship Standards within the Department of Industrial Relations, sponsored by specific entities and employers, and requires the Chief of the Division of Apprenticeship Standards to perform various functions with respect to apprenticeship programs and the welfare of apprentices.
- The Director of Industrial Relations is the Administrator of Apprenticeship and is authorized to appoint assistants necessary to effectuate the purposes of state law governing apprenticeships.
- Establishes the Interagency Advisory Committee on Apprenticeship within the Division of Apprenticeship Standards.
- Requires the committee to provide advice and guidance to the Administrator of Apprenticeship and the Chief of the Division of Apprenticeship Standards on apprenticeship programs, standards, and agreements, as well as preapprenticeship, certification, and on-the-job training and retraining programs, in nonbuilding trades industries.
- Prescribes the composition of the committee, which includes specified officials or their designees, serving as ex officio members, and 6 persons appointed by the Secretary of Labor and Workforce Development who are familiar with certain apprenticeable occupations, as specified.
- Requires the California Workforce Development Board, in consultation with the Division of Apprenticeship Standards, to identify opportunities for "earn and learn" job training opportunities that meet the industry's workforce demands and that are in high-wage, high-demand jobs.
- Defines "earn and learn" to include programs that combine applied learning in a workplace setting with compensation allowing workers or students to gain work experience and secure a wage as they develop skills and competencies directly relevant to the occupation or career for which they are preparing, and programs that bring together classroom instruction with on-the-job training to combine both formal instruction and actual paid work experience.

**Summary of Bill:**

This bill would amend the BPC and the Health and Safety Code with respect to so-called 'earn and learn' programs. It would also amend the Labor Code to add the Director of Consumer Affairs and the Public Health Officer to the Interagency Advisory Committee on Apprenticeship.

The bill seeks to remove barriers to 'earn and learn' programs, which are a combination of work experience and education to permit a student to earn a wage as they are learning. Examples



of 'earn and learn' programs include apprenticeships, internships, and other programs described in Labor Code Section 14005 (a)(1) and (a)(2).

**Board Impact:**

DCA Boards would be prohibited from approving or denying an accreditation program that prohibits 'earn and learn' programs. It would be required to use licensing and certification standards that authorize 'earn and learn' programs. The Department of Public Health would face similar constraints about 'earn and learn' programs when licensing or certifying health facilities.

The Board allows for 'earn and learn' programs with the tutorial program pathway to licensure and will be able to comply with the bill.

**Fiscal Impact:**

The Board may need to implement regulations to ensure compliance with the bill, and the estimated costs of implementing those regulations would be the primary fiscal impact of the bill.

**Staff Recommendation:**

Watch

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**[Assembly Bill 1468](#): Prior authorization - Cunningham**

**Status: Amended on 4/29/21**

Held under submission by Assembly Committee on Appropriations.

**Existing Law:**

- The Knox-Keene Health Care Service Plan Act of 1975 provides for the licensure and regulation of health care service plans by the Department of Managed Health Care, and, makes a willful violation of the act a crime.
- Provides for the regulation of health insurers by the Department of Insurance.
- Authorizes a health care service plan or health insurer to use prior authorization and other utilization review or utilization management functions, under which a licensed physician or a licensed health care professional who is competent to evaluate specific clinical issues may approve, modify, delay, or deny requests for health care services based on medical necessity.
- Requires a health care service plan or health insurer, including those plans or insurers that delegate utilization review or utilization management functions to medical groups, independent practice associations, or other contracting providers, to comply with specified requirements and limitations on their utilization review or utilization management processes.

**Summary of Bill:**

This bill would amend sections of the Insurance Code and the Health and Safety Code concerning automated systems that make care decisions involving, among other fields, acupuncture and traditional medicine. While the Board and its obligations would not be affected by the passage of the bill as written, the bill certainly would affect members of the profession who seek insurance coverage for their services.

The bill was approved as amended by Assembly Health on April 27. The amendments replaced all instances of the phrase Asian medicine with acupuncture and traditional medicine.

The expressed intent of the legislation is to address practices that, intentionally or not, limit the availability of treatments including chiropractic services, physical therapy, occupational therapy, acupuncture and traditional medicine, speech language pathology, and auditory therapies. These limitations mean that these treatments have been authorized at levels 'significantly below' what is authorized in patients' "Evidence of Coverage" documents. (Section 1(d)).

The legislation would require any health service plan to limit who can deny or modify requests for authorization of health care services for reasons of medical necessity. Such decisions must be made by a licensed physician or a licensed health care professional competent to evaluate the specific clinical issues involved in the requested health care services.

Additionally, if an automated prior authorization system is implemented by a health care service plan or an insurer, it shall use evidence-based clinical guidelines to program that system. The algorithms and related research and references shall be made available for download on the plan or insurer's website. Such an automated system shall ensure that any decisions to deny or modify requests for authorization of health care services for reasons of medical necessity are made by a licensed physician or licensed health care professional competent to evaluate the specific clinical issues involved.

**Board Impact:**

The impact of AB 1468 would be limited to the provision of medical services and reimbursement by insurance and/or managed care companies. As such, it does not affect the operations of the Board, nor does it change the obligations of the Board.

**Fiscal Impact:**

No impact.

**Staff Recommendation:**

Watch

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**[Senate Bill 607](#): Professions and vocations - Roth**

**Status: Amended on 5/20/21**

In Senate floor process.

**Existing Law:**

- Provides for the issuance of temporary licenses in certain fields where the applicant, among other requirements, has a license to practice within that field in another jurisdiction, as specified.
- Requires a board within the department to expedite the licensure process for an applicant who holds a current license in another jurisdiction in the same profession or vocation and who supplies satisfactory evidence of being married to, or in a domestic partnership or other legal union with, an active duty member of the Armed Forces of the United States who is assigned to a duty station in California under official active duty military orders.

**Summary of Bill:**

This bill would require a board to waive all fees associated with the application and initial license for an applicant who meets these expedited licensing requirements. The only section of

SB 607 that affects the Board is the proposed amendments to Business and Professions Code (BPC) section 115.5. These provisions are very similar to those of AB 1386.

The remaining provisions of the bill affect the Dental Practice Act, Architects Practice Act, Contractors State License Law, and Private Security Services Act.

**Board Impact:**

The Board receives very few license applications from the military community, military spouses specifically. Last year (2020) the Board received two (2) applications. The previous year (2019) the Board received one (1) application. Although the impact to the Board is not estimated to be significant, this kind of legislation may set a precedence for other communities to seek being pardoned from licensing fees. The Board is special funded by its licensing fees so the preservation of its licensing fees is necessary to support and sustain the functions of the Board.

**Fiscal Impact:**

Based upon the Board's history of low applicants affected by this bill, the Board expects a revenue loss of approximately \$4,900 annually if the provisions of SB 607 are enacted into law.

The Board uses Connect and CAS as its database systems, so both programs would need to be updated to record when an applicant qualifies for an initial fee waiver under Business and Professions Code (BPC) 115.5. This will allow for easy statistical reporting on this in the future. The exact IT impact related to SB 607 is undetermined at this time.

Staff also estimates that regulations will need to be passed to incorporate the information and instructions related to the waiver of initial license fees for military spouses through the Board's initial license application.

**Staff Recommendation:**

Oppose

**Recommended Motion Language:**

I motion that the Acupuncture Board take an [oppose] position on SB 607 (Roth), as amended on 5/20/21, for the reasons discussed by members and staff and as reflected in the staff memo.

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**[Senate Bill 731: Criminal records: relief - Durazo](#)**

**Status: Amended on 5/20/21**

In Senate floor process.

**Existing Law:**

- Authorizes a defendant who was sentenced to a county jail for the commission of a felony and who has met specified criteria to petition to withdraw their plea of guilty or nolo contendere and enter a plea of not guilty after the completion of their sentence, as specified.
- Requires the court to dismiss the accusations or information against the defendant and release them from all penalties and disabilities resulting from the offense, except as specified.
- A person is eligible for arrest record relief if they were arrested on or after January 1, 2021, and the arrest was for a misdemeanor and the charge was dismissed or criminal proceedings have not been initiated within one year after the arrest, or the arrest was for

a felony punishable in the county jail and criminal proceedings have not been initiated within 3 years after the date of the arrest.

- A person is eligible for automatic conviction record relief if, on or after January 1, 2021, they were sentenced to probation, and completed it without revocation, or if they were convicted of an infraction or a misdemeanor, and other criteria are met.

### **Summary of Bill:**

SB 731 would do the following:

- Amend the law to provide that a person is eligible for arrest record relief if the arrest occurred on or after January 1, 2021 and the arrest was for a felony, provided that criminal proceedings have not been initiated, and at least 3 calendar years have elapsed since the date of arrest and no conviction occurred, or there was an acquittal from the charges.
- Amend the law to provide that a person is eligible for arrest record relief if the arrest occurred on or after January 1, 2021 and the arrest was for an offense punishable by imprisonment in state prison or county jail for 8 years or more, there is no indication that criminal proceedings have been initiated, at least 6 years have elapsed since the arrest, and no conviction occurred, or the person was acquitted.
- Allows a court to permit defendants who were convicted of any felony to, after a specified period after completion of the sentence, withdraw a plea of guilty or nolo contendere and enter a not guilty plea, or allows a court to set aside a guilty verdict, if the defendant is not under supervision or serving or charged for another offense. The court must then release the defendant from all penalties and disabilities.
- The exclusion of records of arrest and conviction that were granted relief from state summary criminal history information above does not apply to records for which the recordholder is required to register as a sex offender, has an active record in the Supervised Release File, or if based on information available in the department's record, it appears the person is currently serving a sentence or if there is an indication of pending criminal charges.

The exclusion of records also does not apply if the records are required to be disseminated by federal law.

- Make conviction record relief available for a defendant convicted, on or after January 1, 2005, of a felony for which they did not complete probation without revocation if the defendant appears to have completed all terms of incarceration, probation, mandatory supervision, post release supervision, and parole, and a period of four years has elapsed during which the defendant was not convicted of a new offense.

Conviction record relief does not apply to a conviction of a serious felony defined in subdivision (c) of Section 1192.7, a violent felony as defined in Section 667.5, or a felony offense requiring registration pursuant to Chapter 5.5 (commencing with Section 290) of Title 9 of Part 1.

- Deletes the prohibition on granting relief if the person was incarcerated in the state prison.
- Provides, in addition, that relief granted does not release the defendant from the terms and conditions of any unexpired criminal protective orders.

Most recent amendments to the bill on 5/20/21 excluded serious, violent, and sex felonies from automatic relief, limited retroactivity to January 1, 2005 for conviction record relief, delayed automatic relief for four years where there is a supervision violation or a new felony conviction, and removed the restriction on the access to cleared records.

**Board Impact:**

Under current law, defendants with infractions and misdemeanors who meet the specified criteria are eligible for automatic conviction record relief. Under this bill, the automatic conviction record relief is expanded to all felony convictions, excluding serious or violent felonies or felonies requiring sex offender registration. This means the records of these expunged convictions are sealed. Further, all of these convictions will not appear on the applicant's criminal history record the Board receives from Department of Justice.

The Board requires that all applicants be fingerprinted to perform a background check. The information available to Board staff is limited to the criminal history information that is released on the state and federal summary. Therefore, if the arrest or conviction information that was granted relief does not show up on the applicant's criminal history record, the Board is essentially blind to what occurred in their past.

Currently, it is difficult to ascertain how many license applicants the Board has evaluated who meet the criteria set by the courts to have a felony conviction expunged or charges and arrest set aside. The majority of convictions staff evaluates for applicants are misdemeanors, which are already withheld from disclosure if they meet the criteria for automatic arrest relief and conviction expungement. It is estimated the Board receives a low volume of felony convictions to investigate on criminal history records of applicants. This would mean SB 731 would not have a substantial impact on the Board. However, any time the Board does not have access to an applicant's record to determine pattern of behavior and crimes, moral character, and fitness for licensure, there is concern for compromised public protection.

Another note of concern is that Business and Professions Code section 480 (c), which is the Board's authority to deny licenses, specifically prohibits the Board from denying a license on the basis of a conviction dismissed under Penal Code section 1203.425. Therefore, even if the Board were to somehow find out about a prior felony conviction that was dismissed, the Board would not have authority to issue a denial of license for this conviction.

This bill does not promote public protection to the extent it reduces the Board's access to information about criminal convictions and impacts the Board's ability to exercise its discretion to deny, discipline, or revoke a license based on an applicant's criminal history.

This bill does provide greater opportunity for applicants who have arrests or convictions that do not affect their ability to provide safe services if they were to be licensed.

**Fiscal Impact:**

If the Board has access to an applicant's criminal history record and affected felony convictions are disclosed, staff can make a determination with greater certainty on one's fitness for licensure. If the applicant's record is considered substantially related, the applicant can be issued a denial of licensure. At this point, the applicant may request a hearing to contest the denial, but the burden of establishing if they qualify for licensure and are rehabilitated falls on the applicant. In addition, some of the time applicants will not request a hearing so the Board incurs no Attorney General costs. Investigation costs are generally low as they are usually limited to the cost of procuring the criminal records and statements from the applicant.

Under SB 731, if a license is issued to an applicant with multiple crimes, including felonies that have all been expunged, the likelihood for recidivism is increased. This means a conviction could occur after licensure, which makes it more difficult for the Board to seek discipline or revocation of license. The burden of proof is shifted to the Board for establishing a case that a licensee is not safe to practice. The enforcement costs are generally higher for investigations of licensees, the Attorney General costs will likely be higher given the increased likelihood of going to hearing, and the hearing may draw out longer thereby increasing costs for the Board.

The impact of SB 731 may be delayed in its effects on the Board's enforcement costs when an applicant is issued a license without the relevant criminal history information and they re-offend causing the Board to incur more costs to sufficiently protect the public. At this time, the increase in enforcement costs are unquantifiable.

**Staff Recommendation:**

Watch



**12 -  
Regulatory  
Update**



|                |                                 |
|----------------|---------------------------------|
| <b>DATE</b>    | June 24-25, 2021                |
| <b>TO</b>      | Acupuncture Board Members       |
| <b>FROM</b>    | David Bruggeman, Policy Analyst |
| <b>SUBJECT</b> | Regulatory Update June 2021     |

The following list displays the status of the Board's current regulatory packages:

**1. 16 CCR sections 1399.469.4, 1399.469.5, 1399.469.6 – AB 2138: Denial of Application, Revocation or Suspension of Licensure for a Criminal Conviction**

| Added to Rulemaking Calendar | Researching & Development | Language taken to Committee    | Board Approval                 | Staff & Legal Counsel Draft Package | Notice Published by OAL       | 45-Day Comment Period Ended |
|------------------------------|---------------------------|--------------------------------|--------------------------------|-------------------------------------|-------------------------------|-----------------------------|
| 11/28/2018                   | 1/11/2019                 | N/A                            | 3/28/2019                      | 3/28/2019                           | 1/31/2020                     | 4/30/2020                   |
| Hearing Held                 | Board Final Approval      | 15-Day Notice of Modified Text | Submitted to Agency for Review | Submitted to OAL for Review         | Filed with Secretary of State | Effective Date              |
| 4/30/2020                    | 6/26/2020                 | 11/24/2020                     | 2/17/2021                      | 4/2/2021                            |                               |                             |

This package adds regulations outlining what substantially related means, and what constitutes rehabilitation, for the purposes of denying, suspending, or revoking a license. These regulations address changes in the Business and Professions Code enacted by AB 2138 (Chiu, Chapter 995, Statutes of 2018). The changes affect the Board's ability to discipline licensees and to deny applicants based on a criminal conviction or the underlying acts. Such acts now require a substantial relationship to the qualifications, functions or duties of the profession, and the board must evaluate evidence of the person's rehabilitation.

The final rulemaking package was completed following the December 2020 Board meeting. The package is currently with the Office of Administrative Law (OAL) and the Department of Finance (DOF) for review.

**2. Division 13.7, Article 6.1 and 6.2, Title 16 CCR sections 1399.469 – SB 1441: Implement Uniform Standards Related to Substance Abusing Licensees and Update of Disciplinary Guidelines**

| Added to Rulemaking Calendar | Researching & Development | Language taken to Committee    | Board Approval                 | Staff & Legal Counsel Draft Package | Notice Published by OAL       | 45-Day Comment Period Ended |
|------------------------------|---------------------------|--------------------------------|--------------------------------|-------------------------------------|-------------------------------|-----------------------------|
| 11/28/2018                   | 2012                      | N/A                            | 3/28/19                        | 6/2019                              |                               |                             |
| Hearing Held                 | Board Final Approval      | 15-Day Notice of Modified Text | Submitted to Agency for Review | Submitted to OAL for Review         | Filed with Secretary of State | Effective Date              |
|                              |                           |                                |                                |                                     |                               |                             |

This package reflects updates to the Board's Disciplinary Guidelines, which include incorporating relevant portions of the Uniform Standards Regarding Substance-Abusing



Healing Arts Licensees. It brings Board regulations in line with SB 1441 (Ridley-Thomas, Chapter 548, Statutes of 2008) which required the development of the Uniform Standards.

The Board approved modified text and updates to Guidelines to align with AB 2138 at the December 2020 Board meeting. The Initial draft of the Initial Statement of Reasons (ISOR) is with Legal Affairs for review. Anticipated filing date is in July 2021.

**3. Disclosure of Probation Status to Patients – SB 1448**

**(Implemented through Disciplinary Guidelines Package – See #2)**

| Added to Rulemaking Calendar | Researching & Development | Language taken to Committee    | Board Approval                 | Staff & Legal Counsel Draft Package | Notice Published by OAL       | 45-Day Comment Period Ended |
|------------------------------|---------------------------|--------------------------------|--------------------------------|-------------------------------------|-------------------------------|-----------------------------|
| 11/28/2018                   | 2/2019                    | N/A                            | 3/28/19                        | 6/2019                              |                               |                             |
| Hearing Held                 | Board Final Approval      | 15-Day Notice of Modified Text | Submitted to Agency for Review | Submitted to OAL for Review         | Filed with Secretary of State | Effective Date              |
|                              |                           |                                |                                |                                     |                               |                             |

These changes (included as part of the package on updating the Board's Disciplinary Guidelines) will establish regulations consistent with SB 1448 (Hill, Chapter 570, Statutes of 2018), which requires licensees on probation pursuant to a probationary order made on or after July 1, 2019 to disclose that status to a patient or their guardian or health care surrogate prior to the patients first visit.

The initial draft of the ISOR is with Legal Affairs for review. Anticipated filing date is in July 2021.

**4. 16 CCR 1399.415, 1399.434, 1399.435, 1399.437, 1399.238, 1399.439, Article 3.5: Align Curriculum Standards and Approval Related Regulations with Statute:**

| Added to Rulemaking Calendar | Researching & Development | Language taken to Committee    | Board Approval                 | Staff & Legal Counsel Draft Package | Notice Published by OAL       | 45-Day Comment Period Ended |
|------------------------------|---------------------------|--------------------------------|--------------------------------|-------------------------------------|-------------------------------|-----------------------------|
| 2/11/19                      | 2/11/19                   | 6/13/19                        | 8/15/19;<br>3/26/21            | 1/21/21                             |                               |                             |
| Hearing Held                 | Board Final Approval      | 15-Day Notice of Modified Text | Submitted to Agency for Review | Submitted to OAL for Review         | Filed with Secretary of State | Effective Date              |
|                              |                           |                                |                                |                                     |                               |                             |

This package will make additional changes to regulations to ensure compliance with SB 1246 (Lieu, Chapter 397, Statutes of 2014). The law changed the Board's authority from approving schools and colleges of acupuncture to approving education and training programs in acupuncture. It is the second package from the Board in connection with SB 1246.

The Board approved additional regulatory language at the March 2021 Board meeting. Regulatory package is currently under staff development.

5. **16 CCR 1399.411, 1399.413, 1399.414, 1399.416, 1399.416.1, 1399.416.2, 1399.417, 1399.419: Application Process, Criteria, and Procedures for Approval of a Credential Evaluation Service:**

| Added to Rulemaking Calendar | Researching & Development | Language taken to Committee    | Board Approval                 | Staff & Legal Counsel Draft Package | Notice Published by OAL       | 45-Day Comment Period Ended |
|------------------------------|---------------------------|--------------------------------|--------------------------------|-------------------------------------|-------------------------------|-----------------------------|
| 11/28/18                     | 2018/2019                 | 3/25/21                        | 3/25/21                        |                                     |                               |                             |
| Hearing Held                 | Board Final Approval      | 15-Day Notice of Modified Text | Submitted to Agency for Review | Submitted to OAL for Review         | Filed with Secretary of State | Effective Date              |
|                              |                           |                                |                                |                                     |                               |                             |

This package sets regulations for the Board to approve credential evaluation services for evaluating the foreign education of applicants for licensure. Previously, the Board had no way to evaluate the non-U.S. education of license applicants.

The Board approved regulatory language at the March 2021 Board meeting. The regulatory package is currently being developed by staff. Additional language is before the Board during the June 2021 Board meeting.

6. **16 CCR 1399.460, 1399.462: Increase Board Fees (Section 100 process)**

| Added to Rulemaking Calendar | Researching & Development | Language taken to Committee | Board Approval | Staff & Legal Counsel Draft Package | Submit to OAL | OAL Determination |
|------------------------------|---------------------------|-----------------------------|----------------|-------------------------------------|---------------|-------------------|
| 1/2020                       | 7/2019                    | n/a                         | 08/15/19       | 11/2020                             | 12/9/20       | 5/24/21           |
| Effective Date               |                           |                             |                |                                     |               |                   |
| 5/24/21                      |                           |                             |                |                                     |               |                   |

This package would implement the recent fee increases set by AB 3330 (Calderon, Chapter 359, Statutes of 2020). As the only things affected are the fee amounts, the regulatory package was submitted through the Section 100 process. The regulations were approved by the Office of Administrative Law on May 24, 2021 and are effective as of that date.

7. **16 CCR 13999.419.3: Application for Retired Status; Retired Status; Restoration**

| Added to Rulemaking Calendar | Researching & Development | Language taken to Committee    | Board Approval                 | Staff & Legal Counsel Draft Package | Notice Published by OAL       | 45-Day Comment Period Ended |
|------------------------------|---------------------------|--------------------------------|--------------------------------|-------------------------------------|-------------------------------|-----------------------------|
| 1/2020                       | 4/2019                    | 6/13/19                        | 8/16/19                        | 1/07/21                             |                               |                             |
| Hearing Held                 | Board Final Approval      | 15-Day Notice of Modified Text | Submitted to Agency for Review | Submitted to OAL for Review         | Filed with Secretary of State | Effective Date              |
|                              |                           |                                |                                |                                     |                               |                             |

This package will establish a retired license status, and outline the restrictions of a retired license, as well as how to apply for one and how to restore a retired license to active status. The Board has authority to establish such a license status from BPC Section 464.

The Board approved regulatory language in August 2019, and the package is currently under development by staff and legal counsel.

**8. 16 CCR 1399.483, 1399.489: Continuing Education Requirements**

| Added to Rulemaking Calendar | Researching & Development | Language taken to Committee    | Board Approval                 | Staff & Legal Counsel Draft Package | Notice Published by OAL       | 45-Day Comment Period Ended |
|------------------------------|---------------------------|--------------------------------|--------------------------------|-------------------------------------|-------------------------------|-----------------------------|
| 1/2020                       | 3/2019                    | 3/29/19                        | 3/26/21                        | 3/26/21                             |                               |                             |
| Hearing Held                 | Board Final Approval      | 15-Day Notice of Modified Text | Submitted to Agency for Review | Submitted to OAL for Review         | Filed with Secretary of State | Effective Date              |
|                              |                           |                                |                                |                                     |                               |                             |

This package will set requirements for continuing education in law and ethics for licensees (both in terms of credits and in test requirements) and clean up existing language. While the Board has previously required law and ethics courses in continuing education for licensees, this has not been the case since 1999.

The Board approved regulatory language at the March 2021 Board meeting and the package is currently under development with staff.

**9. 16 CCR 1399.452.2: Standards of Practice for Telehealth Services**

| Added to Rulemaking Calendar | Researching & Development | Language taken to Committee    | Board Approval                 | Staff & Legal Counsel Draft Package | Notice Published by OAL       | 45-Day Comment Period Ended |
|------------------------------|---------------------------|--------------------------------|--------------------------------|-------------------------------------|-------------------------------|-----------------------------|
| 1/1/21                       | 12/20                     | 12/17/20                       | 3/26/21                        | 3/26/21                             |                               |                             |
| Hearing Held                 | Board Final Approval      | 15-Day Notice of Modified Text | Submitted to Agency for Review | Submitted to OAL for Review         | Filed with Secretary of State | Effective Date              |
|                              |                           |                                |                                |                                     |                               |                             |

This package will provide specific guidance and requirements for delivering acupuncture services via telehealth. This was prompted by the COVID-19 pandemic and the subsequent encouragement by the Governor through Executive Orders to use telehealth to maximize the abilities of California's health care workforce.

The Board approved regulatory language at the March 2021 Board meeting and the regulatory package is currently under development with staff.



**22 -CE**  
**Across**  
**Boards**



|                |                                                                                                                                     |
|----------------|-------------------------------------------------------------------------------------------------------------------------------------|
| <b>DATE</b>    | June 24 - 25, 2021                                                                                                                  |
| <b>TO</b>      | Board Members, Acupuncture Board                                                                                                    |
| <b>FROM</b>    | Kristine Brothers, Policy Coordinator                                                                                               |
| <b>SUBJECT</b> | Item 21 – Presentation on CE Requirements for Acupuncture Board and other Healing Arts Boards in the Department of Consumer Affairs |

For purposes of reviewing the Board's current continuing education (CE) requirements, Board staff has provided a summary of the major CE requirements of seven (7) other healing arts programs under the Department of Consumer Affairs (DCA). A listing of the laws and regulations of each program where the requirements derived is also provided. The comparison will provide perspective on where the Acupuncture Board's requirements parallel and differ.

| Major CE Requirements Comparisons |                |              |                                         |                                      |
|-----------------------------------|----------------|--------------|-----------------------------------------|--------------------------------------|
| License Type                      | Renewal Period | Req'd CE Hrs | Certificate Retention Period (in years) | Initial Licensee Renewal Requirement |
| L.Ac.                             | Biennial       | 50           | 4                                       | prorated schedule                    |
| DC                                | Annual         | 24           | 4                                       | waived                               |
| MD                                | Biennial       | 50           | 4                                       | <13 months = 25 hrs                  |
| DO                                | Biennial       | 100          | 4                                       | prorated schedule                    |
| ND                                | Biennial       | 60           | 6                                       | waived                               |
| PT                                | Biennial       | 30           | 5                                       | 50% of total CE                      |
| PA                                | Biennial       | 50           | 4                                       | n/a                                  |
| NP                                | Biennial       | 30           | 4                                       | waived                               |

The following is a summary for each identified Board's major CE requirements:

**Acupuncture Board (L.Ac.)**

- Biennial Total CE: 50 hours
- Licensees shall retain CE certificates for four (4) years
- Maximum of five (5) hours in a two-year period on CE content unrelated to clinical matters or the provision of health care to patients
- Initial licensure periods from 13 months to 23 months shall complete 35 – 45 hours of CE based upon CCR §1399.489
- Maximum of 50 percent of total required CE in a two-year period can be done through independent or home study

**Board of Chiropractic Examiners (DC)**

- Annual Total CE: 24 hours

- Licensees shall retain course certificates for four (4) years
- Maximum of 12 hours may be completed through distance learning
- Minimum of two (2) hours in Laws and Ethics
- Minimum of four (4) hours any one, or a combination of, the subject areas: History Taking and Physical Examination Procedures, Chiropractic Adjustive Techniques or Chiropractic Manipulation Techniques, or Proper and Ethical Billing and Coding
- Licensees shall take a minimum of 18 hours of CE in 16 approved subject areas or courses approved by The California Department of Industrial Relations, Division of Workers Compensation or a Division 2 Healing Arts Board or Bureau approved course
- Licensees exempt from CE during initial licensure period

### **Medical Board (MD)**

- Biennial Total CE: 50 hours
- Licensees shall retain course certificates for four (4) years
- Initial licensure periods less than 13 months only need to complete 25 hours CE
- One-time requirement of 12 hours CE in pain management and the treatment of terminally ill and dying patients
- All general internists and family physicians who have a patient population of which over 25 percent are 65 years of age or older must complete at least 20 percent of all mandatory CME in a course in the field of geriatric medicine or the care of older patients
- All CME courses must include cultural and linguistic competency related to medicine
- Any physician who takes and passes a certifying or recertifying examination administered by a recognized specialty board shall be granted credit for four consecutive years (100 hours) of CE credit
- Maximum of 60 hours of CE shall be granted to a physician for receiving the Board's Physician Humanitarian Award.
- Maximum of six (6) hours of CE shall be granted for each month that a physician is engaged in an approved postgraduate residency training program or approved clinical fellowship program accredited by the Accreditation Council for Graduate Medical Education (ACGME)

### **Osteopathic Medical Board (DO)**

- Biennial Total CE: 100 hours
- Licensees shall retain course certificates for four (4) years
- Minimum of 40 hours must be American Osteopathic Association (AOA) Category 1A or 1B (Osteopathic medicine)
- CME accepted for credit may be from programs certified by AOA, AOA specialty groups, and Board approved organizations and institutions
- Maximum 60 hours of AOA certified allopathic CME
- CMEs are prorated for the initial licensure period in line with AOA

- One-time requirement of 12 hours CE in pain management and the treatment of terminally ill and dying patients (BPC §2190.5)
- 50 hours of CE will be waived for each year of the CE period a licensee spent in a residency or fellowship

### **Naturopathic Medicine Committee (ND)**

- Biennial Total CE: 60 hours
- Licensees shall retain course certificates for six (6) years
- CE is waived for licensees renewing in their initial license period
- Minimum 20 hours of CE shall be in pharmacotherapeutics
- Maximum 15 hours may be in naturopathic medical journals or osteopathic or allopathic medical journals, or audio or videotaped presentations, slides, programmed instruction, or computer-assisted instruction or preceptorships
- Maximum 20 hours may be in any single topic
- Maximum 15 hours of the CE required for the certificate in naturopathic childbirth attendance shall apply to the total 60 hours in a two-year period

### **Physical Therapy Board (PT)**

- Biennial Total CE: 30 hours
- Licensees shall retain course certificates for five (5) years
- For first-time license renewals, if submitted prior to the expiration, the CE hour requirements shall be one-half of the normal cycle
- CE hours must be obtained in subjects related to the professional practice of physical therapy or patient/client management
- Minimum two (2) hours in ethics, laws and regulations, or some combination thereof
- Minimum four (4) hours in life support for health care professionals
- Maximum six (6) hours can be earned through an alternate pathway, which is an entity other than an approved provider

### **Physician Assistant Board (PA)**

- Biennial Total CE: 50 hours or be certified by the National Commission on Certification of Physician Assistants (NCCPA) at the time of renewal
- Licensees shall retain course certificates for four (4) years
- CE shall be obtained from a provider designated category 1 from one of the six approved sponsors
- PAs who are authorized through a practice agreement to furnish Schedule II controlled substances, and who are registered with the United States Drug Enforcement Administration, and who have not successfully completed a one-time course in compliance with Sections 1399.610 and 1399.612, shall complete a course that covers Schedule II controlled substances and the risks of addiction

### **Board of Registered Nursing (Nurse Practitioners, NP)**

- Biennial Total CE: 30 hours
- Licensees shall retain course certificates for four (4) years
- New RN licensees who passed the national licensing examination within the past two years are exempt from CE during their first renewal
- Nurse practitioners who hold an active furnishing number, who are authorized through standardized procedures or protocols to furnish Schedule II controlled substances, and who are registered with the United States Drug Enforcement Administration, shall complete a course including Schedule II controlled substances and the risks of addiction
- Advance practice certificate holders are not required to complete more CE than the required 30 hours
- Course content of CE must be relevant to the practice of nursing and must be related to scientific knowledge and/or technical skills or direct and/or indirect patient/client care
- There is no limit on the number of CE hours that can be completed through independent or home study courses
- Certain college courses are accepted for CE hours
- Courses offered by Board approved providers, as well as approved by appropriate state, regional and national health professional associations as well as other professional health and licensing boards in and out of California can be acceptable



## Laws and Regulations of Each DCA Program

### Acupuncture Board (L.Ac.)

#### Business and Professions Code (BPC) §4945

- (a) The board shall establish standards for continuing education for acupuncturists.
- (b) The board shall require each acupuncturist to complete 50 hours of continuing education every two years as a condition for renewal of his or her license. No more than five hours of continuing education in each two-year period may be spent on issues unrelated to clinical matters or the actual provision of health care to patients. A provider of continuing education shall apply to the board for approval to offer continuing education courses for credit toward this requirement on a form developed by the board, shall pay a fee covering the cost of approval and for the monitoring of the provider by the board and shall set forth the following information on the application:
- (1) Course content.
  - (2) Test criteria.
  - (3) Hours of continuing education credit requested for the course.
  - (4) Experience and training of instructors.
  - (5) Other information as required by the board.
  - (6) That interpreters or bilingual instruction will be made available, when necessary.
- (c) Licensees residing out of state or out of the country shall comply with the continuing education requirements.
- (d) Providers of continuing education shall be monitored by the board as determined by the board.
- (e) If the board determines that any acupuncturist has not obtained the required number of hours of continuing education, it may renew the acupuncturist's license and require that the deficient hours of continuing education be made up during the following renewal period in addition to the current continuing education required for that period. If any acupuncturist fails to make up the deficient hours and complete the current requirement of hours of continuing education during the subsequent renewal period, then his or her license to practice acupuncture shall not be renewed until all the required hours are completed and documented to the board.

*(Amended (as amended by Stats. 2000, Ch. 568) by Stats. 2005, Ch. 648, Sec. 1. Effective January 1, 2006.)*

#### Title 16, California Code of Regulations (CCR) §1399.489. Continuing Education Compliance

- (a) With the exception of those holding an inactive license, when renewing an initial license that has been issued for less than two years, licensees shall complete the following hours of board-approved continuing education:

| Period of Initial Licensure | Requiring Continuing Education Hours |
|-----------------------------|--------------------------------------|
| 13-16 Months                | 35                                   |
| 17-20 Months                | 40                                   |
| 21-23 Months                | 45                                   |

Thereafter, all licensees shall complete 50 hours every two years as a condition of renewal. No more than five (5) hours of continuing education in each two-year period may be obtained in Category 2.

(b) Licensees are limited to fifty percent (50%) of the required continuing education hours every two (2) years for independent or home study courses.

(c) Each licensee at the time of license renewal shall sign a statement under penalty of perjury that he or she has or has not complied with the continuing education requirements. It shall constitute unprofessional conduct for any licensee to misrepresent completion of the required continuing education.

(d) The board may audit a random sample of licensees who have reported compliance with the continuing education requirement.

(e) Any licensee selected for audit shall be required to submit documentation or records of continuing education coursework that he or she has taken and completed.

(f) Each licensee shall retain for a minimum of four (4) years records of all continuing education programs that he or she has attended that indicate the provider's name, title of the course or program, date(s) and location of course, and number of continuing education hours awarded.

(g) Instructors of approved continuing education courses may receive one hour of continuing education for each classroom hour completed as an instructor, up to a maximum of six (6) hours of continuing education per year, regardless of how many hours or courses are taught. Participation as a member of a panel presentation for an approved course shall entitle the participant to earn continuing education hours equal to the actual panel presentation time within the appropriate category.

(h) Any licensee who participates in the development of an occupational analysis, an examination development session, item review session or a passing score workshop, shall receive one (1) hour of continuing education for every two (2) hours of participation.

**Board of Chiropractic Examiners (DC)**

**Title 16, CCR §361. Continuing Education Requirements**

(a) For purposes of this section, "implementation date" means two years following June 8, 2011.

(b) For license renewals that expire on or after the implementation date, the number of required hours of continuing education courses shall be twenty-four (24). For license renewals that expire prior to the implementation date, the number of required hours of continuing education courses shall be twelve (12).

(c) For license renewals that expire on or after the implementation date, a maximum of twelve (12) continuing education hours may be completed through distance learning as defined in

Section 363.1. For license renewals that expire prior to the implementation date, a maximum of six (6) continuing education hours may be completed through distance learning as defined in Section 363.1.

(d) Any continuing education hours accumulated before June 8, 2011 that meet the requirements in effect on the date the hours were accumulated, will be accepted by the board for license renewals.

(e) On or after the implementation date, licensees shall complete a minimum of two (2) hours in subdivision (g)(11) - Ethics and Law, a minimum of four (4) hours in any one of, or a combination of, the subject areas specified in subdivision (g)(3) - History Taking and Physical Examination Procedures, subdivision (g)(5) - Chiropractic Adjustive Techniques or Chiropractic Manipulation Techniques, or subdivision (g)(10) - Proper and Ethical Billing and Coding.

(f) With the exception of the mandatory hours referenced in subdivision (e), the remaining eighteen (18) hours of additional continuing education requirements may be met by taking courses in any of the subject areas listed in subdivision (g) or courses taken pursuant to subdivision (h). The eighteen (18) hours may include any combination of continuing education courses in subject areas specified in either subdivision (g) or approved by agencies specified in subdivision (h). By way of example, a licensee may take eight (8) hours of continuing education courses in subject areas listed in subdivision (g), that are approved by the board, and ten (10) hours of continuing education courses that are approved by the California Department of Industrial Relations, Division of Workers Compensation pursuant to subparagraph (1) of subdivision (h).

(g) Courses approved by the board shall be limited to the following subject areas:

1. Philosophy of chiropractic, including the historical development of chiropractic as an art and science and health care approach; the vertebral subluxation complex and somato-visceral reflexes including their relationships between disease and health; and other chiropractic theory and philosophy.
2. Instruction in basic sciences of anatomy, histology, neurology, physiology, nutrition, pathology, biochemistry or toxicology.
3. Instruction in various basic to comprehensive history taking and physical examination procedures, including but not limited to orthopedic, neurological and general diagnosis related to evaluation of the neuro-musculoskeletal systems, and includes general diagnosis and differential diagnosis of all conditions that affect the human body.
4. Diagnostic testing procedures, interpretation and technologies that aid in differential diagnosis of all conditions that affect the human body.
5. Chiropractic adjustive techniques or chiropractic manipulation techniques.
6. Pain management theory, including, but not limited to, current trends in treatment and instruction in the physiology and anatomy of acute, sub-acute and chronic pain.
7. Physiotherapy.
8. Instruction in Manipulation Under Anesthesia including the safe handling of patients under anesthesia.
9. Instruction in the aspects of special population care, including, but not limited to, geriatric, pediatric, and athletic care as related to the practice of chiropractic.

10. Instruction in proper and ethical billing and coding, including accurate and effective record keeping and documentation of evaluation, treatment and progress of a patient. This is not to include practice building or patient recruitment/retention or business techniques or principles that teach concepts to increase patient visits or patient fees per case.

11. Ethics and law: including but not limited to: truth in advertising; professional boundaries; mandatory reporting requirements for child abuse/neglect, elder abuse/neglect; spousal or cohabitant abuse/neglect; sexual boundaries between patient and doctors; review of the specific laws, rules and regulations related to the practice of chiropractic in the State of California.

12. Adverse event avoidance, including reduction of potential malpractice issues.

13. Pharmacology, including side effects, drug interactions and the pharmacodynamics of various commonly prescribed and over-the-counter drugs; drug reactions and interactions with herbs, vitamins and nutritional supplements; blood and urinalysis testing used in the diagnosis and detection of disease, including use of and interpretation of drug testing strips or kits utilizing urinalysis, saliva, hair and nail clippings.

14. A licensee may earn up to a maximum of two (2) hours of continuing education credit in cardiopulmonary resuscitation, basic life support or use of an automated external defibrillator.

15. Board Meeting: A licensee may earn a maximum of four (4) hours of continuing education credit per renewal period for attending a full board meeting that includes the hearing of cases related to petitioners seeking the reinstatement of revoked licenses or early termination of probationary licenses. A petitioner may not earn any continuing education hours for attending a board meeting on the same day in which said petitioner's hearing is conducted. The attendance of a licensee at a board meeting under this subparagraph shall be monitored and confirmed by board staff designated by the Executive Officer.

16. Any of the following as related to the practice of chiropractic:

(A) Principles of practice.

(B) Wellness. (prevention, health maintenance)

(C) Rehabilitation.

(D) Public health.

(h) With the exception of the mandatory courses specified in subdivision (e), the remaining continuing education requirements may be met by taking continuing education courses, including distance learning, that are approved by either of the following:

(1) The California Department of Industrial Relations, Division of Workers Compensation.

(2) Any Healing Arts Board or Bureau within Division 2 of the Business and Professions Code or approved by any organization authorized to approve continuing education by any Healing Arts Board or Bureau in Division 2 of the Business and Professions Code.

(i) The continuing education providers and courses referenced in subdivision (h) do not need to be approved by the Board for credit to be granted nor do they need to meet the requirements contained in Sections 362, 363, and 363.1.

Title 16, CCR §364. Exemptions and Reduction of Requirement

A licensee may qualify for a full or partial exemption, from the continuing education requirements of Section 361 if a licensee meets any of the criterion listed below:

(a) A licensee who holds a license on inactive status is not required to complete continuing education on an annual basis; however, they must provide proof of completion of the required continuing education hours prior to activating their license as specified in Section 371(f);

(b) A new licensee is exempt from continuing education requirements in the year of initial licensure;

(c) An instructor who has taught for one (1) year and currently teaches core curriculum courses for more than eight (8) credit hours per week at any Council on Chiropractic Education accredited college for at least six (6) months during any license renewal period year shall be exempt from continuing education.

(d) A licensee who teaches a board-approved continuing education course may earn one (1) hour of continuing education credit for each hour of lecture up to 24 hours per year.

(e) Notwithstanding Section 361(c), a licensee who is unable to attend continuing education courses due to a physical disability and provides written certification from a primary health care provider may earn all 24 hours of continuing education credits for the period of the license renewal through Board-approved distance learning courses as defined in Section 363.1.

(f) A licensee who participates as an examiner for the entire part four portion of the National Board of Chiropractic Examiners (NBCE) examinations shall receive a maximum of six (6) hours of continuing education credit for each examination period conducted by the NBCE during the license renewal period. The licensee must provide written certification from the NBCE confirming the licensee has met the requirements of this subsection.

(g) A licensee who participates in the entire two-day workshop as a Subject Matter Expert for the purpose of exam development of the California Law and Professional Practice Examination will receive one hour of CE credit for each hour volunteered, up to a maximum of sixteen hours, which includes eight (8) hours in the Ethics and Law and eight (8) hours in the Principles of Practice subject areas as defined in sections 361(g)(11) and 361(g)(16)(A), respectively.

(h) An active Board Member. A professional board member who has served one full year on the Board of Chiropractic Examiners shall be exempt from the continuing education requirement in each year of board member service.

(i) A licensee on active duty with a branch of the armed forces of the United States or the California National Guard who meets the exemption requirements specified in Business and Professions Code section 114.3 shall be exempt from continuing education requirements.

Note: Authority cited: Sections 114.3 and 135.5, Business and Professions Code; and Section 1000-4(b), Business and Professions Code (Chiropractic Initiative Act of California, Stats. 1923, p. 1xxxviii). Reference: Sections 114.3 and 135.5, Business and Professions Code; and Sections 1000-4(b), 1000-4(e) and 1000-10, Business and Professions Code (Chiropractic Initiative Act of California, Stats. 1923, p. 1xxxviii).

Title 16, CCR §366. Continuing Education Audits

The Board shall conduct random audits to verify compliance with Continuing Education requirements of active licensees. Licensees shall secure and retain certificates of completion issued to them at the time of attendance of approved Continuing Education courses for a period of four (4) years from their last renewal and shall forward these documents to the Board upon request.

Licensees who fail to retain certificates of completion shall obtain duplicate certificates, from approved Continuing Education providers, who shall issue duplicates only to licensees whose names appear on the providers' rosters of course attendees. The certificates of completion shall be clearly marked "duplicate" and shall contain the information specified in Section 362(d)(6).

Licensees who furnish false or misleading information to the Board regarding their Continuing Education hours shall be subject to disciplinary action. Providers who provide false or inaccurate verification of a licensee's participation may lose their provider status for up to ten (10) years, at the discretion of the Executive Officer. The full board's ruling, as described in Section 362(e), shall be the final order on the matter.

The board or its designee shall not be restricted from inspecting, observing, or auditing any approved chiropractic course in progress, at no charge.

The board, at its discretion, may contact attendees after a continuing education course as part of the board's auditing process to obtain information regarding the quality and content of the course.

Note: Authority cited: Section 1000-4(b), Business and Professions Code (Chiropractic Initiative Act of California, Stats. 1923, p. 1xxxviii). Reference: Sections 1000-4(b), 1000-4(e) and 1000-10, Business and Professions Code (Chiropractic Initiative Act of California, Stats. 1923, p. 1xxxviii).

### **Medical Board (MD)**

#### **BPC §2190.1**

(a) The continuing medical education standards of Section 2190 may be met by educational activities that meet the standards of the board and that serve to maintain, develop, or increase the knowledge, skills, and professional performance that a physician and surgeon uses to provide care, or to improve the quality of care provided to patients. These may include, but are not limited to, educational activities that meet any of the following criteria:

- (1) Have a scientific or clinical content with a direct bearing on the quality or cost-effective provision of patient care, community or public health, or preventive medicine.
- (2) Concern quality assurance or improvement, risk management, health facility standards, or the legal aspects of clinical medicine.
- (3) Concern bioethics or professional ethics.
- (4) Are designed to improve the physician-patient relationship.

(b) (1) On and after July 1, 2006, all continuing medical education courses shall contain curriculum that includes cultural and linguistic competency in the practice of medicine.

(2) Notwithstanding the provisions of paragraph (1), a continuing medical education course dedicated solely to research or other issues that does not include a direct patient care component or a course offered by a continuing medical education provider that is not

located in this state is not required to contain curriculum that includes cultural and linguistic competency in the practice of medicine.

(3) Associations that accredit continuing medical education courses shall develop standards before July 1, 2006, for compliance with the requirements of paragraph (1). The associations may update these standards, as needed, in conjunction with an advisory group that has expertise in cultural and linguistic competency issues.

(4) A physician and surgeon who completes a continuing education course meeting the standards developed pursuant to paragraph (3) satisfies the continuing education requirement for cultural and linguistic competency.

(c) In order to satisfy the requirements of subdivision (b), continuing medical education courses shall address at least one or a combination of the following:

(1) Cultural competency. For the purposes of this section, "cultural competency" means a set of integrated attitudes, knowledge, and skills that enables a health care professional or organization to care effectively for patients from diverse cultures, groups, and communities. At a minimum, cultural competency is recommended to include the following:

(A) Applying linguistic skills to communicate effectively with the target population.

(B) Utilizing cultural information to establish therapeutic relationships.

(C) Eliciting and incorporating pertinent cultural data in diagnosis and treatment.

(D) Understanding and applying cultural and ethnic data to the process of clinical care, including, as appropriate, information pertinent to the appropriate treatment of, and provision of care to, the lesbian, gay, bisexual, transgender, and intersex communities.

(2) Linguistic competency. For the purposes of this section, "linguistic competency" means the ability of a physician and surgeon to provide patients who do not speak English or who have limited ability to speak English, direct communication in the patient's primary language.

(3) A review and explanation of relevant federal and state laws and regulations regarding linguistic access, including, but not limited to, the federal Civil Rights Act (42 U.S.C. Sec. 1981 et seq.), Executive Order 13166 of August 11, 2000, of the President of the United States, and the Dymally-Alatorre Bilingual Services Act (Chapter 17.5 (commencing with Section 7290) of Division 7 of Title 1 of the Government Code).

(d) (1) On and after January 1, 2022, all continuing medical education courses shall contain curriculum that includes the understanding of implicit bias.

(2) Notwithstanding the provisions of paragraph (1), a continuing medical education course dedicated solely to research or other issues that does not include a direct patient care component or a course offered by a continuing medical education provider that is not located in this state is not required to contain curriculum that includes implicit bias in the practice of medicine.

(3) Associations that accredit continuing medical education courses shall develop standards before January 1, 2022, for compliance with the requirements of paragraph (1). The associations may update these standards, as needed, in conjunction with an advisory group established by the association that has expertise in the understanding of implicit bias.

(e) In order to satisfy the requirements of subdivision (d), continuing medical education courses shall address at least one or a combination of the following:

(1) Examples of how implicit bias affects perceptions and treatment decisions of physicians and surgeons, leading to disparities in health outcomes.

(2) Strategies to address how unintended biases in decision making may contribute to health care disparities by shaping behavior and producing differences in medical treatment along lines of race, ethnicity, gender identity, sexual orientation, age, socioeconomic status, or other characteristics.

(f) Notwithstanding subdivision (a), educational activities that are not directed toward the practice of medicine, or are directed primarily toward the business aspects of medical practice, including, but not limited to, medical office management, billing and coding, and marketing shall not be deemed to meet the continuing medical education standards for licensed physicians and surgeons.

(g) Educational activities that meet the content standards set forth in this section and are accredited by the California Medical Association or the Accreditation Council for Continuing Medical Education may be deemed by the Division of Licensing to meet its continuing medical education standards.

*(Amended by Stats. 2019, Ch. 417, Sec. 2. (AB 241) Effective January 1, 2020.)*

#### BPC §2190.3

All general internists and family physicians who have a patient population of which over 25 percent are 65 years of age or older shall complete at least 20 percent of all mandatory continuing education hours in a course in the field of geriatric medicine or the care of older patients.

*(Added by Stats. 2000, Ch. 440, Sec. 5. Effective January 1, 2001.)*

#### BPC §2190.5

(a) (1) All physicians and surgeons shall complete a mandatory continuing education course in the subjects of pain management and the treatment of terminally ill and dying patients. For the purposes of this section, this course shall be a one-time requirement of 12 credit hours within the required minimum established by regulation, to be completed by December 31, 2006. All physicians and surgeons licensed on and after January 1, 2002, shall complete this requirement within four years of their initial license or by their second renewal date, whichever occurs first. The board may verify completion of this requirement on the renewal application form.

(2) For physicians and surgeons licensed on or after January 1, 2019, the course described in paragraph (1) shall also include the subject of the risks of addiction associated with the use of Schedule II drugs.

(b) By regulatory action, the board may exempt physicians and surgeons by practice status category from the requirement in subdivision (a) if the physician and surgeon does not engage in direct patient care, does not provide patient consultations, or does not reside in the State of California.

(c) This section shall not apply to physicians and surgeons practicing in pathology or radiology specialty areas.



*(Amended by Stats. 2018, Ch. 693, Sec. 3. (SB 1109) Effective January 1, 2019.)*

BPC §2190.6

(a) As an alternative to Section 2190.5, a physician and surgeon may complete a one-time continuing education course of 12 credit hours in the subject of treatment and management of opiate-dependent patients, including eight hours of training in buprenorphine treatment, or other similar medicinal treatment, for opioid use disorders.

(b) A physician and surgeon who meets the requirements, as determined by the board, of a "qualifying physician" under clause (ii) of subparagraph (G) of paragraph (2) of subsection (g) of Section 823 of Title 21 of the United States Code, the Comprehensive Addiction Recovery Act of 2016 (Public Law 114-198), as that clause read on January 1, 2018, shall be deemed to have met the requirements of subdivision (a).

(c) A physician and surgeon who chooses to comply with this section as an alternative to Section 2190.5 shall complete the requirements of this section by the physician and surgeon's next license renewal date.

(d) The board shall determine whether a physician and surgeon has met the requirements of this section.

*(Amended by Stats. 2019, Ch. 497, Sec. 4. (AB 991) Effective January 1, 2020.)*

Title 16, CCR §1336. Continuing Education Required

(a) Each physician is required to complete not less than 50 hours of approved continuing education during each two-year period immediately preceding the expiration date of the license except as permitted by Section 1337(d). If an initial license was issued for less than 13 months, only 25 hours of continuing education must be completed.

(b) Each physician renewing his or her license under the provisions of Article 19 (commencing with Section 2420) of the Medical Practice Act may be required to submit proof satisfactory to the division of compliance with the provisions of this article a minimum of every four (4) years.

(c) Each physician in order to renew his or her license at each renewal thereof shall report progress towards compliance with the continuing education requirement.

(d) Any physician who does not complete a minimum of 50 hours of approved continuing education during the two-year period immediately preceding the expiration date of the license shall be ineligible for renewal of his or her license under Section 1338 unless such physician applies for and obtains a waiver pursuant to Section 1339 below.

Note: Authority cited: Section 2018, Business and Professions Code. Reference: Sections 2190 and 2420, Business and Professions Code.

Title 16, CCR §1337. Approved Continuing Education Programs

(a) The following programs are approved by the division for continuing education credit:

(1) Programs which qualify for Category I credit from the California Medical Association or the American Medical Association;

(2) Programs which qualify for prescribed credit from the American Academy of Family Physicians;

(3) Programs offered by other organizations and institutions acceptable to the division.

(b) Only those courses and other educational activities that meet the requirements of Section 2190.1 of the code which are offered by these organizations shall be acceptable for credit under this section.

(c) A maximum of one-third of the required hours of continuing education may be satisfied by teaching or otherwise presenting a course or program approved under this section.

(d) Any physician who takes and passes a certifying or recertifying examination administered by a recognized specialty board shall be granted credit for four (4) consecutive years (100 hours) of continuing education credit for re-licensure purposes. Such credit may be applied retroactively or prospectively.

(e) A maximum of sixty (60) hours of continuing education shall be granted to a physician for receiving the Physician's Recognition Award.

(f) A maximum of six (6) hours of continuing education shall be granted for each month that a physician is engaged in an approved postgraduate residency training program or approved clinical fellowship program accredited by the Accreditation Council for Graduate Medical Education (ACGME) for re-licensure purposes.

Note: Authority cited: Section 2018, Business and Professions Code. Reference: Section 2190, Business and Professions Code.

#### Title 16, CCR §1338. Audit and Sanctions for Noncompliance

(a) The Board shall audit during each year a random sample of physicians who have reported compliance with the continuing education requirement. No physician shall be subject to audit more than once every four (4) years. Those physicians selected for audit shall be required to document their compliance with the continuing education requirements of this article on a form provided by the Board.

(b) Any physician who is found not to have completed the required number of hours of approved continuing education will be required to make up any deficiency during the next biennial renewal period. Such physician shall document to the Board the completion of any deficient hours identified by audit. Any physician who fails to make up the deficient hours during the following renewal period shall be ineligible for renewal of his or her license to practice medicine until such time as the deficient hours of continuing education are documented to the Board.

(c) It shall constitute unprofessional conduct for any physician to misrepresent his or her compliance with the provisions of this article.

(d) Any physician selected for audit who has been certified as complying with the continuing education requirements of this article by those organizations listed in Section 1337, subsections (a)(1) and (a)(2), will not be required to submit documentation or records of continuing education coursework received, but the Board may obtain such records directly from the certifying organizations.

(e) The Board requires that each physician retain records for a minimum of four years of all continuing education programs attended which indicate the title of the course or program attended, dates of attendance, the length of the course or program, the sponsoring organization and the accrediting organization, if any, which may be needed in the event of an audit by the Board.

Note: Authority cited: Section 2018, Business and Professions Code. Reference: Section 2190, Business and Professions Code.

### **Osteopathic Medical Board (DO)**

#### **BPC §2454.5**

In order to ensure the continuing competence of licensed osteopathic physicians and surgeons, the board shall adopt and administer standards for the continuing education of those licensees. The board shall require each licensed osteopathic physician and surgeon to demonstrate satisfaction of the continuing education requirements as a condition for the renewal of a license at intervals of not less than one year nor more than two years. Commencing January 1, 2018, the board shall require each licensed osteopathic physician and surgeon to complete a minimum of 100 hours of American Osteopathic Association continuing education hours during each two-year cycle, of which 40 hours shall be completed in American Osteopathic Association Category 1 continuing education hours and the remaining 60 hours shall be either American Osteopathic Association or American Medical Association accredited as a condition for renewal of an active license. Licensed osteopathic physicians and surgeons shall complete a course on the risks of addiction associated with the use of Schedule II drugs.

For purposes of this section, "American Osteopathic Association Category 1" means continuing education activities and programs approved for Category 1 credit by the Committee on Continuing Medical Education of the American Osteopathic Association.

*(Amended by Stats. 2018, Ch. 693, Sec. 6. (SB 1109) Effective January 1, 2019.)*

#### **Title 16, CCR §1635. Required Continuing Medical Education (CME)**

(a) Each physician submitting the tax and registration fee shall submit satisfactory proof to the Board of ongoing compliance with the provisions of this article at the times specified herein.

(b) Commencing January 1, 1989, a physician shall complete 150 hours within a three-year period to satisfy the CME requirement; this three-year period is defined as the "CME requirement period."

(c) The requirement of 150 hours during the three-year CME requirement period shall include a minimum of 60 hours of CME in Category 1-A or 1-B defined by the American Osteopathic Association (AOA). The balance of the CME requirement of 90 hours may consist of CME as defined by either the American Osteopathic Association (AOA) or the American Medical Association (AMA) and may be completed within the entire three-year CME requirement period.

(d) Effective January 1, 1989, the three-year CME period shall commence for those licensed on or before January 1, 1989. Those licensed subsequent to January 1, 1989 shall commence their three-year CME requirement period on a prorata basis commencing the first full calendar year subsequent to initial licensure. Subsequent three-year periods shall not include CME earned during a preceding three-year requirement period.

(e) Category 1-A, or other CME is defined by the American Osteopathic Association (AOA), set forth in the American Osteopathic Association's "Continuing Medical Education Guide," and is hereby incorporated by reference and can be obtained from the AOA at 142 E. Ontario Street, Chicago, IL 60611; it is published once every three years by the AOA most recently in 1992. Category 1 defined by the American Medical Association is set forth in

"Physicians Recognition Award Information Booklet," and is hereby incorporated by reference and can be obtained from the American Medical Association, 515 North State Street, Chicago, IL 60610; it is published on an occasional basis by the AMA, most recently in January, 1986.

Note: Authority cited: Osteopathic Act (Initiative Measure, Stats. 1923, p. xciii), Section 1; and Sections 2454.5 and 3600-1, Business and Professions Code. Reference: Section 2454.5, Business and Professions Code.

#### Title 16, CCR §1639. Approved Continuing Medical Education

The following CME programs are approved for credit:

(a) Those programs certified by the American Osteopathic Association (AOA) as Category I and II credit and those certified by the American Medical Association (AMA) as Category I.

(b) Those programs which qualify for prescribed credit from the AOA specialty groups.

(c) Those programs meeting the criteria set forth in Section 1640 and offered by other organizations and institutions.

(d) CME categories are defined by Section 1635(e).

Note: Authority cited: Osteopathic Act (Initiative Measure, Stats. 1923, p. xciii), Section 1; and Section 3600-1, Business and Professions Code. Reference: Sections 2190, and 2452, Business and Professions Code.

#### Title 16, CCR §1641. Sanctions for Noncompliance

(a) Any physician who has not completed 150 hours of approved CME or the prorated share pursuant to Section 1635(d) during the three-year CME requirement period will be required to make up any deficiency unless a waiver is obtained pursuant to Section 1637. Any physician who fails to complete the deficient hours shall be ineligible for renewal of his or her license to practice medicine until such time as the deficient hours of CME are documented to the Board.

(b) It shall constitute unprofessional conduct and grounds for disciplinary action including the filing of an accusation, for any physician to misrepresent his or her compliance with the provisions of this article or who fails to comply with the provisions of this article.

(c) Each physician shall retain records for a minimum of four years of all CME programs attended which indicate the title of the course or program attended, dates of attendance, the length of the course or program, the sponsoring organization and the accrediting organization, if any.

Note: Authority cited: Osteopathic Act (Initiative Measure, Stats. 1923, p. xciii), Section 1; and Sections 2454.5 and 3600-1, Business and Profession Code. Reference: Section 2454.5, Business and Professions Code.

#### **Naturopathic Medicine Committee (ND)**

##### BPC §3635

(a) In addition to any other qualifications and requirements for licensure renewal, the committee shall require the satisfactory completion of 60 hours of approved continuing

education biennially. This requirement is waived for the initial license renewal. The continuing education shall meet the following requirements:

- (1) At least 20 hours shall be in pharmacotherapeutics.
- (2) No more than 15 hours may be in naturopathic medical journals or osteopathic or allopathic medical journals, or audio or videotaped presentations, slides, programmed instruction, or computer-assisted instruction or preceptorships.
- (3) No more than 20 hours may be in any single topic.
- (4) No more than 15 hours of the continuing education requirements for the specialty certificate in naturopathic childbirth attendance shall apply to the 60 hours of continuing education requirement.
- (5) Course content shall pertain to the practice of naturopathic, osteopathic, or allopathic medicine.

(b) The continuing education requirements of this section may be met through continuing education courses approved by the committee, the California Naturopathic Doctors Association, the American Association of Naturopathic Physicians, the California State Board of Pharmacy, the State Board of Chiropractic Examiners, or other courses that meet the standards for continuing education for licensed physicians and surgeons in California. All continuing education providers shall comply with Section 3635.2. Continuing education providers shall submit an annual declaration to the committee that their educational activities satisfy the requirements described in Section 3635.2 and the committee shall maintain a list of these providers on its Internet Web site.

*(Amended by Stats. 2017, Ch. 600, Sec. 6. (SB 796) Effective January 1, 2018. Repealed as of January 1, 2023, pursuant to Section 3686.)*

#### **BPC §3635.1**

- (a) A licensee shall retain certificates of continuing education course completion for six years.
- (b) The committee may audit licensees' continuing education records to ensure that continuing education requirements are met.
- (c) It shall be unprofessional conduct for a licensee to furnish false or misleading information to the committee regarding continuing education.

*(Added by Stats. 2017, Ch. 600, Sec. 7. (SB 796) Effective January 1, 2018. Repealed as of January 1, 2023, pursuant to Section 3686.)*

#### **Physical Therapy Board (PT)**

##### **Title 16, CCR §1399.91. Continuing Competency Required**

(a) As required by this article, a licensee must accumulate 30 hours of continuing competency hours in each license cycle. A licensee must submit evidence of completing those hours to the board in order to renew his or her license. In order to implement this requirement:

- (1) For licenses that expire between October 31, 2010 and October 31, 2011, if the renewal is submitted prior to the expiration of the original license, 15 hours of continuing competency shall be completed.

(2) For licenses that expire on and after November 1, 2011, the full 30 hours shall be completed.

(b) For first-time license renewals, if the renewal is submitted prior to the expiration of the original license, the continuing competency hour requirements shall be one-half of the normal cycle. The requirements of 1399.93 shall apply to any renewal under this subsection.

(c) For those licensees accumulating "continuing education units" or "CEUs" under the continuing education requirements of APTA and CPTA, one CEU is equal to ten hours.

Note: Authority cited: Sections 2615 and 2649, Business and Professions Code. Reference: Sections 2644 and 2649, Business and Professions Code.

#### Title 16, CCR §1399.92. Content Standards for Continuing Competency

Continuing competency hours must be obtained in subjects related to either the professional practice of physical therapy or patient/client management.

(a) The professional practice of physical therapy includes but is not limited to professional accountability, professional behavior and professional development.

(b) Patient/client management includes but is not limited to examination, evaluation and diagnosis and prognosis; plan of care; implementation; education; and discharge.

Note: Authority cited: Sections 2615 and 2649, Business and Professions Code. Reference: Sections 2644 and 2649, Business and Professions Code.

#### Title 16, CCR §1399.93. Continuing Competency Subject Matter Requirements and Other Limitations

For each renewal cycle, a licensee's continuing competency hours must include the following:

(a) Two hours in ethics, laws and regulations, or some combination thereof, and

(b) Four hours in life support for health care professionals. Such training should be comparable to, or more advanced than, the American Heart Association's Basic Life Support Health Care Provider course.

Note: Authority cited: Sections 2615 and 2649, Business and Professions Code. Reference: Sections 2644 and 2649, Business and Professions Code.

#### Title 16, CCR §1399.94. Authorized Pathways for Obtaining Hours

Continuing competency hours must be obtained through an authorized pathway, which may be either traditional or alternate.

(a) Traditional pathways are those offered by an approved provider. There is no limit to the number of hours which may be accumulated through traditional pathways. The traditional pathways are:

(1) Continuing education courses, including home and self-study courses, approved through an agency recognized by the board under the provisions of regulation section 1399.95; and

(2) College coursework from an accredited institution.

(b) Alternate pathways are those offered by an entity other than an approved provider. Only those alternate pathways described in this section may be used to accumulate continuing competency hours. The number of alternate pathway hours that may be applied for a

renewal cycle may not exceed any cap noted below. Hours may be granted only in accordance with the conversion formula for each alternate pathway noted below.

\*

| <b>Alternate Pathways</b> |                                                                                                                                                                                                                                                            |            |                                        |
|---------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------|----------------------------------------|
|                           | <b>Description</b>                                                                                                                                                                                                                                         | <b>Cap</b> | <b>Conversion</b>                      |
| <b>A</b>                  | Publishing a peer-reviewed journal article, case study or book chapter                                                                                                                                                                                     | 16 hours   | 5 hours per article, study, or chapter |
| <b>B</b>                  | Developing or presenting an approved college or continuing education course for the first time                                                                                                                                                             | 16 hours   | 4 hours for each course                |
| <b>C</b>                  | Participating as a subject matter expert in the examination process for the Board, FSBPT, or ABPTS                                                                                                                                                         | 16 hours   | 6 hours per experience                 |
| <b>D</b>                  | Serving on a Board appointed task force                                                                                                                                                                                                                    | 16 hours   | 6 hours per experience                 |
| <b>E</b>                  | Performing in a role as a clinical instructor where the student's clinical experience is full time and lasts at least 4 weeks. Effective January 1, 2013, the clinical instructor must be credentialed by APTA or hold a substantially similar credential. | 12 hours   | 1 hour per week                        |
| <b>F</b>                  | Attending a conference relating to the practice of physical therapy where proof of attendance is provided by the conference sponsor.                                                                                                                       | 8 hours    | 2 hours per conference                 |
| <b>G</b>                  | Attending a conference offered by FSBPT, APTA, or a component thereof.                                                                                                                                                                                     | 8 hours    | 4 hours per conference                 |
| <b>H</b>                  | Attending a Board meeting                                                                                                                                                                                                                                  | 8 hours    | 2 hours per meeting                    |
| <b>I</b>                  | Completing a FSBPT practice review tool.                                                                                                                                                                                                                   | 6 hours    | 6 hours per experience                 |
| <b>J</b>                  | Successfully passing one of the American Board of Physical Therapy Specialties' certified specialist examinations, including re-certification examinations.                                                                                                | 6 hours    | 6 hours per examination                |
| <b>K</b>                  | Completing training as an expert consultant for the Board.                                                                                                                                                                                                 | 6 hours    | 6 hours per training.                  |
| <b>L</b>                  | Successfully passing the Board's California Law Examination.                                                                                                                                                                                               | 2 hours    | 2 hours per examination                |

Note: Authority cited: Sections 2615 and 2649, Business and Professions Code. Reference: Sections 2644 and 2649, Business and Professions Code.

\*Please note that the chart from CCR §1399.94 (b) has been reformatted to be accessible to the public for viewing. To review the official regulation, access [CCR §1399.94](#).

Title 16, CCR §1399.97. Record Keeping

- (a) Each licensee shall keep and maintain records showing that each course or activity for which credit is claimed has been completed. Those records shall reflect the title of the course or activity, the date taken or completed, and the record of participation.
- (b) Each licensee shall retain such documentation for a period of five years after the course or activity concludes.
- (c) Each licensee shall provide copies of such documentation to the board or its designee upon request.

Note: Authority cited: Sections 2615 and 2649, Business and Professions Code. Reference: Sections 2644 and 2649, Business and Professions Code.

**Physician Assistant Board (PA)**

BPC §3502.1

In addition to the medical services authorized in the regulations adopted pursuant to Section 3502, and except as prohibited by Section 3502, a PA may furnish or order a drug or device subject to all of the following:

- (a) The PA shall furnish or order a drug or device in accordance with the practice agreement and consistent with the PA's educational preparation or for which clinical competency has been established and maintained.
- (b) (1) A practice agreement authorizing a PA to order or furnish a drug or device shall specify which PA or PAs may furnish or order a drug or device, which drugs or devices may be furnished or ordered, under what circumstances, the extent of physician and surgeon supervision, the method of periodic review of the PA's competence, including peer review, and review of the practice agreement.
- (2) In addition to the requirements in paragraph (1), if the practice agreement authorizes the PA to furnish a Schedule II controlled substance, the practice agreement shall address the diagnosis of the illness, injury, or condition for which the PA may furnish the Schedule II controlled substance.
- (c) The PA shall furnish or order drugs or devices under physician and surgeon supervision. This subdivision shall not be construed to require the physical presence of the physician and surgeon, but does require the following:
  - (1) Adherence to adequate supervision as agreed to in the practice agreement.
  - (2) The physician and surgeon be available by telephone or other electronic communication method at the time the PA examines the patient.
- (d) (1) Except as provided in paragraph (2), the PA may furnish or order only those Schedule II through Schedule V controlled substances under the California Uniform Controlled Substances Act (Division 10 (commencing with Section 11000) of the Health and Safety Code) that have been agreed upon in the practice agreement.
- (2) The PA may furnish or order Schedule II or III controlled substances, as defined in Sections 11055 and 11056, respectively, of the Health and Safety Code, in accordance with the practice agreement or a patient-specific order approved by the treating or supervising physician and surgeon.



(e) (1) The PA has satisfactorily completed a course in pharmacology covering the drugs or devices to be furnished or ordered under this section or has completed a program for instruction of PAs that meet the requirements of Section 1399.530 of Title 16 of the California Code of Regulations, as that provision read on June 7, 2019.

(2) A physician and surgeon through a practice agreement may determine the extent of supervision necessary pursuant to this section in the furnishing or ordering of drugs and devices.

(3) PAs who hold an active license, who are authorized through a practice agreement to furnish Schedule II controlled substances, and who are registered with the United States Drug Enforcement Administration, and who have not successfully completed a one-time course in compliance with Sections 1399.610 and 1399.612 of Title 16 of the California Code of Regulations, as those provisions read on June 7, 2019, shall complete, as part of their continuing education requirements, a course that covers Schedule II controlled substances, and the risks of addiction associated with their use, based on the standards developed by the board. The board shall establish the requirements for satisfactory completion of this subdivision. Evidence of completion of a course meeting the standards, including pharmacological content, established in Sections 1399.610 and 1399.612 of Title 16 of the California Code of Regulations, as those provisions read on June 7, 2019, shall be deemed to meet the requirements of this section.

(f) For purposes of this section:

(1) "Furnishing" or "ordering" shall include the following:

(A) Ordering a drug or device in accordance with the practice agreement.

(B) Transmitting an order of a supervising physician and surgeon.

(C) Dispensing a medication pursuant to Section 4170.

(2) "Drug order" or "order" means an order for medication that is dispensed to or for an ultimate user, issued by a PA as an individual practitioner, within the meaning of Section 1306.02 of Title 21 of the Code of Federal Regulations.

(g) Notwithstanding any other law, (1) a drug order issued pursuant to this section shall be treated in the same manner as a prescription of a supervising physician; (2) all references to "prescription" in this code and the Health and Safety Code shall include drug orders issued by physician assistants; and (3) the signature of a PA on a drug order issued in accordance with this section shall be deemed to be the signature of a prescriber for purposes of this code and the Health and Safety Code.

*(Amended by Stats. 2019, Ch. 707, Sec. 4. (SB 697) Effective January 1, 2020.)*

#### BPC §3524.5

(a) The board may require a licensee to complete continuing education as a condition of license renewal under Section 3523 or 3524. The board shall not require more than 50 hours of continuing education every two years. The board shall, as it deems appropriate, accept certification by the National Commission on Certification of Physician Assistants (NCCPA), or another qualified certifying body, as determined by the board, as evidence of compliance with continuing education requirements.

(b) (1) The board shall adopt regulations to require that, on and after January 1, 2022, all continuing education courses for licensees under this chapter contain curriculum that includes the understanding of implicit bias.

(2) Beginning January 1, 2023, continuing education providers shall ensure compliance with paragraph (1).

(3) Beginning January 1, 2023, the board shall audit continuing education providers at least once every five years to ensure adherence to regulatory requirements, and shall withhold or rescind approval from any provider that is in violation of the regulatory requirements.

(c) Notwithstanding the provisions of subdivision (b), a continuing education course dedicated solely to research or other issues that does not include a direct patient care component is not required to contain curriculum that includes implicit bias in the practice of physician assistants.

(d) In order to satisfy the requirements of subdivision (a), continuing education courses shall address at least one or a combination of the following:

(1) Examples of how implicit bias affects perceptions and treatment decisions of physician assistants, leading to disparities in health outcomes.

(2) Strategies to address how unintended biases in decision making may contribute to health care disparities by shaping behavior and producing differences in medical treatment along lines of race, ethnicity, gender identity, sexual orientation, age, socioeconomic status, or other characteristics.

*(Amended by Stats. 2019, Ch. 417, Sec. 4. (AB 241) Effective January 1, 2020.)*

Title 16, CCR §1399.615. Continuing Medical Education Required

(a) A physician assistant who renews his or her license on or after January 1, 2011, is required to complete fifty (50) hours of approved continuing medical education during each two (2) year renewal period.

(b) The requirements of subdivision (a) shall be deemed satisfied if the physician assistant, at the time of renewal, is certified by the National Commission on Certification of Physician Assistants.

(c) Each physician assistant in order to renew his or her license at each renewal thereof shall report compliance with the provisions of this article by declaring upon application that he or she has complied with the continuing medical education requirements or that the provisions of subdivision (b) are applicable.

(d) Any physician assistant who does not complete the required hours of approved continuing medical education during the two-year period immediately preceding the expiration date of the license shall be ineligible for renewal of his or her license under section 1399.617, unless such physician assistant applies for and obtains a waiver pursuant to Section 1399.618 below.

(e) A physician assistant shall retain, for a period of four years after the acquisition of the necessary continuing medical education, records issued by an approved continuing medical education provider that indicate the title of the course or program attended, the dates of attendance and the hours assigned to the course or program, or if a physician assistant is certified by the National Commission on Certification of Physician Assistants at the time of license renewal, evidence of certification shall be retained for four (4) years after such certification is issued.

Note: Authority cited: Section 3510, Business and Professions Code. Reference: Section 3524.5, Business and Professions Code.

Title 16, CCR §1399.616. Approved Continuing Medical Education Programs

(a) Programs are approved by the board for continuing medical education if they are designated as Category I (Preapproved) by one of the following sponsors:

- (1) American Academy of Physician Assistants (AAPA).
- (2) American Medical Association (AMA).
- (3) American Osteopathic Association Council on Continuing Medical Education (AOACCME).
- (4) American Academy of Family Physicians (AAFP).
- (5) Accreditation Council for Continuing Medical Education (ACCME).
- (6) A state medical society recognized by the ACCME.

(b) Continuing medical education obtained from a program other than those specified in subdivision (a) shall not satisfy the continuing education requirement in subdivision (a) of section 1399.615.

Note: Authority cited: Section 3510, Business and Professions Code. Reference: Section 3524.5, Business and Professions Code.

**Board of Registered Nursing (Nurse Practitioners, NP)**

BPC §2811.5

(a) Each person renewing his or her license under Section 2811 shall submit proof satisfactory to the board that, during the preceding two-year period, he or she has been informed of the developments in the registered nurse field or in any special area of practice engaged in by the licensee, occurring since the last renewal thereof, either by pursuing a course or courses of continuing education in the registered nurse field or relevant to the practice of the licensee, and approved by the board, or by other means deemed equivalent by the board.

(b) Notwithstanding Section 10231.5 of the Government Code, the board, in compliance with Section 9795 of the Government Code, shall do the following:

(1) By January 1, 2019, deliver a report to the appropriate legislative policy committees detailing a comprehensive plan for approving and disapproving continuing education opportunities.

(2) By January 1, 2020, report to the appropriate legislative committees on its progress implementing this plan.

(c) For purposes of this section, the board shall, by regulation, establish standards for continuing education. The standards shall be established in a manner to ensure that a variety of alternative forms of continuing education are available to licensees, including, but not limited to, online, academic studies, in-service education, institutes, seminars, lectures, conferences, workshops, extension studies, and home study programs. The standards shall take cognizance of specialized areas of practice, and content shall be relevant to the practice of nursing and shall be related to the scientific knowledge or technical skills required for the practice of nursing or be related to direct or indirect patient or client care. The

continuing education standards established by the board shall not exceed 30 hours of direct participation in a course or courses approved by the board, or its equivalent in the units of measure adopted by the board.

(d) The board shall audit continuing education providers at least once every five years to ensure adherence to regulatory requirements, and shall withhold or rescind approval from any provider that is in violation of the regulatory requirements.

(e) The board shall encourage continuing education in spousal or partner abuse detection and treatment. In the event the board establishes a requirement for continuing education coursework in spousal or partner abuse detection or treatment, that requirement shall be met by each licensee within no more than four years from the date the requirement is imposed.

(f) In establishing standards for continuing education, the board shall consider including a course in the special care needs of individuals and their families, including, but not limited to, all of the following:

(1) Pain and symptom management, including palliative care.

(2) The psychosocial dynamics of death.

(3) Dying and bereavement.

(4) Hospice care.

(g) This section shall not apply to licensees during the first two years immediately following their initial licensure in California or any other governmental jurisdiction.

(h) The board may, in accordance with the intent of this section, make exceptions from continuing education requirements for licensees residing in another state or country, or for reasons of health, military service, or other good cause.

(Amended by Stats. 2017, Ch. 520, Sec. 7. (SB 799) Effective January 1, 2018.)

#### BPC §2836.1

Neither this chapter nor any other provision of law shall be construed to prohibit a nurse practitioner from furnishing or ordering drugs or devices when all of the following apply:

(a) The drugs or devices are furnished or ordered by a nurse practitioner in accordance with standardized procedures or protocols developed by the nurse practitioner and the supervising physician and surgeon when the drugs or devices furnished or ordered are consistent with the practitioner's educational preparation or for which clinical competency has been established and maintained.

(b) The nurse practitioner is functioning pursuant to standardized procedure, as defined by Section 2725, or protocol. The standardized procedure or protocol shall be developed and approved by the supervising physician and surgeon, the nurse practitioner, and the facility administrator or the designee.

(c) (1) The standardized procedure or protocol covering the furnishing of drugs or devices shall specify which nurse practitioners may furnish or order drugs or devices, which drugs or devices may be furnished or ordered, under what circumstances, the extent of physician and surgeon supervision, the method of periodic review of the nurse practitioner's competence, including peer review, and review of the provisions of the standardized procedure.

(2) In addition to the requirements in paragraph (1), for Schedule II controlled substance protocols, the provision for furnishing Schedule II controlled substances shall address the diagnosis of the illness, injury, or condition for which the Schedule II controlled substance is to be furnished.

(d) The furnishing or ordering of drugs or devices by a nurse practitioner occurs under physician and surgeon supervision. Physician and surgeon supervision shall not be construed to require the physical presence of the physician, but does include (1) collaboration on the development of the standardized procedure, (2) approval of the standardized procedure, and (3) availability by telephonic contact at the time of patient examination by the nurse practitioner.

(e) For purposes of this section, no physician and surgeon shall supervise more than four nurse practitioners at one time.

(f) (1) Drugs or devices furnished or ordered by a nurse practitioner may include Schedule II through Schedule V controlled substances under the California Uniform Controlled Substances Act (Division 10 (commencing with Section 11000) of the Health and Safety Code) and shall be further limited to those drugs agreed upon by the nurse practitioner and physician and surgeon and specified in the standardized procedure.

(2) When Schedule II or III controlled substances, as defined in Sections 11055 and 11056, respectively, of the Health and Safety Code, are furnished or ordered by a nurse practitioner, the controlled substances shall be furnished or ordered in accordance with a patient-specific protocol approved by the treating or supervising physician. A copy of the section of the nurse practitioner's standardized procedure relating to controlled substances shall be provided, upon request, to any licensed pharmacist who dispenses drugs or devices, when there is uncertainty about the nurse practitioner furnishing the order.

(g) (1) The board has certified in accordance with Section 2836.3 that the nurse practitioner has satisfactorily completed a course in pharmacology covering the drugs or devices to be furnished or ordered under this section.

(2) A physician and surgeon may determine the extent of supervision necessary pursuant to this section in the furnishing or ordering of drugs and devices.

(3) Nurse practitioners who are certified by the board and hold an active furnishing number, who are authorized through standardized procedures or protocols to furnish Schedule II controlled substances, and who are registered with the United States Drug Enforcement Administration, shall complete, as part of their continuing education requirements, a course including Schedule II controlled substances, and the risks of addiction associated with their use, based on the standards developed by the board. The board shall establish the requirements for satisfactory completion of this subdivision.

(h) Use of the term "furnishing" in this section, in health facilities defined in Section 1250 of the Health and Safety Code, shall include (1) the ordering of a drug or device in accordance with the standardized procedure and (2) transmitting an order of a supervising physician and surgeon.

(i) "Drug order" or "order" for purposes of this section means an order for medication which is dispensed to or for an ultimate user, issued by a nurse practitioner as an individual practitioner, within the meaning of Section 1306.02 of Title 21 of the Code of Federal Regulations. Notwithstanding any other provision of law, (1) a drug order issued pursuant to this section shall

be treated in the same manner as a prescription of the supervising physician; (2) all references to "prescription" in this code and the Health and Safety Code shall include drug orders issued by nurse practitioners; and (3) the signature of a nurse practitioner on a drug order issued in accordance with this section shall be deemed to be the signature of a prescriber for purposes of this code and the Health and Safety Code.

*(Amended by Stats. 2018, Ch. 693, Sec. 8. (SB 1109) Effective January 1, 2019.)*

#### Title 16, CCR §1451. License Renewal Requirements

(a) Pursuant to Section 2811 of the Code, each licensee shall pay the renewal fee and submit proof, satisfactory to the Board that during the preceding renewal period or preceding two years, the licensee has started and successfully completed thirty (30) hours of continuing education approved by the Board.

(b) Licensees shall submit proof to the Board of successful completion of the required number of approved continuing education hours by signing a statement under penalty of perjury, indicating compliance and agreeing to supply supporting documents on request.

(c) Licensees shall not be allowed to claim partial credit for a continuing education course, however, instructors who participate in a part of an offering may receive full credit if the total offering is attended.

(d) Licensees shall keep the certificates or gradeslips from academic institutions pursuant to Section 1458(b)(7) for four years from the date they complete approved continuing education courses and must submit such certificates or gradeslips to the Board when requested.

Note: Authority cited: Section 2715, Business and Professions Code. Reference: Section 2811.5, Business and Professions Code.

#### Title 16, CCR §1451.2. Continuing Education Courses

(a) Continuing Education course credit may be given for the following continuing education courses:

(1) Courses offered by an approved Provider as specified in Section 1454. In addition to classroom courses, courses may be designed by an approved Provider for participation in activities which include nursing practice, publishing and/or research, provided that such courses meet the requirements of Section 1456.

(2) Out of state courses which have been approved for voluntary or mandatory continuing education by Registered Nurse licensing agencies of other states and/or state nurses' associations, as well as offerings by nationally recognized health associations and/or their regional subdivisions provided that such courses meet the requirements of Section 1456.

(3) Out of state academic courses in an accredited [FNa1] post-secondary institution which are related to the specific knowledge and/or technical skills required for the practice of nursing.

(4) Other courses as may be approved by the Board at its sole discretion.

Minimum requirement is regional accreditation.

Note: Authority cited: Section 2715, Business and Professions Code. Reference: Section 2811.5, Business and Professions Code.

### Title 16, CCR §1452. Exemption from Continuing Education Requirements

(a) During the first two years immediately following initial licensure in California or other jurisdictions, licensees shall be exempt from completion of the continuing education requirements specified in Section 1451.

(b) At the time of making application for renewal, an applicant may request exemption from continuing education requirements if:

(1) The licensee is requesting inactive status for the license; or

(2) The licensee can show evidence, satisfactory to the Board that

(A) he or she has been employed overseas for a period of one (1) year or more, or a resident overseas for a period of one (1) year or more and currently employed; or

(B) he or she is employed by a Federal Institution or Agency or one of the Military Services (USA), where that person is practicing nursing outside of the State of California on a California license, or

(C) he or she has had hardship of one or more years' duration, if

1. there is a total physical disability for one (1) year or more and verification of readiness or ability to return to work; or

2. there is a total disability of a member of the immediate family for whom licensee has total responsibility for one (1) year or more.

Note: Authority cited: Section 2715, Business and Professions Code. Reference: Section 2811.5, Business and Professions Code.

### Title 16, CCR §1456. Continuing Education Courses

The content of all courses of continuing education must be relevant to the practice of nursing and must:

(a) be related to the scientific knowledge and/or technical skills required for the practice of nursing, or

(b) be related to direct and/or indirect patient/client care.

(c) Learning experiences are expected to enhance the knowledge of the Registered Nurse at a level above that required for licensure. Courses related to the scientific knowledge for the practice of nursing include basic and advanced courses in the physical, social, and behavioral sciences, as well as advanced nursing in general or specialty areas. Content which includes the application of scientific knowledge to patient care in addition to advanced nursing courses may include courses in related areas, i.e., human sexuality; death, dying, and grief; foreign languages (conversational); therapeutic interpersonal relationship skills; pharmacology; and those related to specialty areas of nursing practice.

Courses in nursing administration, management, education, research, or other functional areas of nursing relating to indirect patient/client care would be acceptable.

Courses which deal with self-improvement, changes in attitude, financial gain, and those courses designed for lay people are not acceptable for meeting requirements for license renewal.

Note: Authority cited: Section 2715, Business and Professions Code. Reference: Section 2811.5, Business and Professions Code.